93-663

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES
OF AMERICA

October Term, 1993

NORMAN HUNTER LAMSON,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Name of the member of the Bar of this Court who is counsel of record for appellant:

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Such attorney is counsel of record

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125 pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the federal government may search electronically by stationary magnetometer or metal detector the person of an attorney and counselor at law seeking to enter a federal building in which is located a United States bankruptcy court in which he is authorized to practice law when no statute, regulation or court order or local court rule authorizes such a search.

2. If such a statute, regulation or court order or rule exists, whether the search it authorizes is unreasonable within the meaning of the Fourth Amendment.

3. Whether conditioning entry on submission to such a search, and ultimately clearing the device without activating it, violates the attorney's rights of free speech under the First Amendment.

4. Whether conditioning entry on submission to such a search, and ultimately clearing the device without activating it, violates the attorney's rights to a public trial under the Sixth Amendment.

5. Whether an information is sufficient to withstand a motion to dismiss when it alleges that defendant acted knowingly and intentionally, but an essential element of the offense is that the defendant acted knowingly and willfully.

6. Whether an information is sufficient to withstand a motion to dismiss when it alleges defendant engaged in

"conduct" and interfered with duties without identifying in particular the conduct or the duties.

LIST OF ALL PARTIES TO THE PROCEEDING

The names of all parties appear in the caption to the case.

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REFERENCE TO THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS DELIVERED IN THE CASE.

The sole written opinion in the case is unpublished.

STATEMENT OF THE GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED

A. Date of the entry of the judgment: May 20, 1993.

B. Date of any order respecting a rehearing or granting an extension of time: not applicable.

C. Express reliance on Rule 12.3: not applicable.

D. Statutory provision believed to confer on this Court jurisdiction to review the judgment or decree in question by writ of certiorari: 28 U.S.C. sec. 1291 conferring on the court of appeals jurisdiction from the district court.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES AND REGULATIONS INVOLVED IN THE CASE:

1. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or things to be seized. Fourth Amendment to the United States Constitution.

2. Congress shall make no law... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. First Amendment to the United States Constitution.

3. In all criminal prosecutions, the accused shall enjoy the right to a... public trial... Sixth Amendment to the United States Constitution.

(For the following, see pertinent text in the appendix)

4. 40 U.S.C. sections 751(a)(b), 40 U.S.C. section 486(c), 40 U.S.C. sections 318 and 318a.

5. 18 U.S.C. sec. 930.

6. 41 Code of Federal Regulations (CFR) Subpart 101-20.3 - Conduct on Federal Property (sec. 101-20.300, et. seq.).

7. 41 CFR Subpart 101-20.1 - Building

Operations, Maintenance, Protection, and Alterations (sec. 101-20.002-2 and sec. 101-20.103).

8. The following sections of the Code of Virginia (1950):

carrying without permit concealed pistol, revolver or other weapon designed or intended to propel a missile of any kind, dirk, bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, blackjack, flailing instrument, disc, etc. sec. 18.2-308.

unlawful for convicted felons to carry a firearm or concealed weapon described in sec. 18.2-308. Sec. 18.2-308.2.

unlawful to use certain restricted ammunition. Sec. 18.2-308.3.

unlawful to release tear gas. Sec. 18.2-312.

unlawful to use snakes in a dangerous manner. Sec. 18.2-313.

unlawful to possess sawed off shotgun. Sec.18.2-300.

unlawful to use machine gun for offensive or aggressive purpose. Sec. 18.2-290. Machine gun must be registered. Sec. 18.2-295.

unlawful to carry gun or other weapon into courthouse. Sec. 18.2-283.1.

unlawful to brandish firearm. Sec. 18.2-282.

unlawful to discharge firearm in public

place. Sec. 18.2-280.

unlawful to discharge firearm in a building. Sec. 18.2-279.

unlawful to possess plastic firearm. Sec. 18.2-308.5.

unlawful to possess firearm muffler. Sec. 18.2-308.6.

use of a firearm in commission of certain felonies. Sec. 18.2-53.1.

unlawful to possess fire bombs or explosive materials or devices. Sec. 18.2-85.

unlawful to set off chemical bomb. Sec. 18.2-87.1

unlawful to threaten to bomb building. Sec. 18.2-83.

9. Federal Assimilative Crimes statute, 18 U.S.C. sec. 7 (3) describing as "special maritime and territorial jurisdiction of the United States" "any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be for the erection of a ... other needful building."

10. sec. 7.1-18.1 of the Code of Virginia (1950), "A. On and after July 1, 1981, the conditional consent of the Commonwealth of Virginia is hereby given in accordance with clause 17, sec. 8, Article 1 of the United States Constitution to the acquisition by the United States, or under its authority, by... lease... of any lands in Virginia,...

required... for needful public buildings."

11. 18 U.S.C. sec. 13 (a), "Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State... in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment."

12. sec. 191.2-59 of the Code of Virginia,

Any officer... searching any ... person otherwise than by virtue of and under a search warrant, shall be guilty of malfeasance in office. Any officer... violating the provisions of this section shall be liable to the person aggrieved thereby in both compensatory and punitive damages. Any officer found guilty of a second offense under this section shall, upon conviction thereof, immediately forfeit his office.

See also the history of such statute: Ch. 366, Acts of 1960; Ch. 495, Acts of 1975; Ch. 293, Acts of 1976; Ch. 721, Acts of 1978.

13. "lawyers as officers of the Court and fiduciaries thereof..." Standing Order for the Western District adopted August

22, 1983, appearing as No. 17 in U. S. District Court Rules for the Western District of Virginia.

CONCISE STATEMENT OF THE CASE

At street address 255 W. Main Street, in the City of Charlottesville, Virginia, sits a three story office type building with basement on a lot. Written across its front appear the words, "United States Courthouse", and, immediately underneath in larger letters, "Federal Building." This building was constructed in the early to mid 1980's.

Photographs of the outside of the building and current posted matters at its entrances are attached hereto collectively as one Exhibit A (Appendix p. 91) ("Exhibit A"). These fairly and accurately depict the building and its entrance ways prior to the time of the alleged offense except for the following:

1. prior to 1/16/92 there was posted on each of the front glass doors a poster of a pistol with a circle around it and a

line through it which were removed after 1/16/92;

2. at the same time such posters were removed, the "WEAPONS PROHIBITED" sign consisting of red ink on a white background was posted on the right inner glass entrance door. It reads, "Federal law prohibits the possession of firearms or other dangerous weapons in Federal buildings with or without intent to commit a crime by all persons not specifically authorized by Title 18 United States Code Section 930(c). Conviction carries penalties of up to five (5) years imprisonment and $5,000.00 fine."

3. With respect to the 11" X 14 1/4" blue sheet containing Rules and Regulations Governing Public Buildings and Grounds, Title 41 C.F.R. Subpart 101-20.3, and WARNING under 18 U.S.C. sec. 930, appearing on the front glass in the upper right hand corner, defendant does

not know when such was posted (defendant does not deny notice of such regulations; in fact, SC Security guard Ronnie Thacker hand delivered to him on 9/19/91 at the site a copy, a copy of which is attached hereto as Exhibit B [except for "Received Sep. 19, 1991, Norman Lamson, attorney at law" which defendant stamped thereon on 9/19/91]).

4. Until approximately spring or summer of 1991, the IRS forms were located inside the building on the first floor, and not in between the outer and inner glass front entrance doors. Hence, the "Stop, Forms" sign with arrows to left and right was not posted until after such time.

A photocopy of a physical survey of the lot, parking space and building by William S. Roudabush, Inc., dated June 30, 1983, reduced by photocopy processes

to place the copy onto an 8 1/2" X 11" sheet of paper, is attached hereto as Exhibit C. To defendant's awareness, such is a fair and accurate survey of the lot and building. Fee simple title is in the name of VV Vermoegensverwaltungsgesellschaft GvR Dr. Rose/Dr. Kivernagel, a West German partnership, by deed of The Redinger Group dated March 15, 1991, a copy of which is attached hereto as Exhibit D 1-5. The owner has mortgaged the property and assigned rents to Home Beneficial Life Insurance Company. Plaintiff leases the property through its agent, the General Services Administration ("GSA") under lease no. GS-03B-20042, etc.. To defendant's awareness, plaintiff is the sole tenant of the property and has been the sole tenant since the building was first occupied.

The Administrator of the GSA has not

filed pursuant to 40 U.S.C. sec. 255 with the Governor of the Commonwealth of Virginia an acceptance of tender of concurrent jurisdiction from the Commonwealth to the plaintiff pursuant to sec. 71.-18.1C of the Code of Virginia (1950). (See letter from defendant dated 5/13/92 and reply letter dated 6/23/92 attached hereto as Exhibit E and F, respectively). Also, an examination of the deed book records in the Clerk's Office of the Circuit Court of the City of Charlottesville reveals no deed from the Commonwealth conveying and relinquishing exclusive jurisdiction of subject property to the plaintiff as is authorized under sec. 7.1-21 of the Code of Virginia (1950).

A rough aerial view sketch of the first floor is annexed hereto as Exhibit G. As is apparent, persons entering from the front are funneled into a stationary

magnetometer or metal detector as they enter (Defendant does not know whether the device is a magnetometer or metal detector, but will refer to it as a "metal detector".) (For purposes of this Affidavit, it is not necessary to state which persons entering from the front are permitted to walk around it and who can avoid it by entering the back way with an electronic key card). Except for those persons who are exempt, people entering from the front are required by the guard to walk through the metal detector to reach their destination, including the Social Security Office whose door is located outside the metal detector immediately on the left. Enough space is left between the turn style ropes and the conveyor belt and cabinet X-ray system ("hereinafter X-ray system) so that people leaving the building out the front can walk between them on the way out,

thereby not walking through the metal detector on the way out. (The X-ray system will display an image of a pistol, knife or the like that is contained in a purse or other package placed on the conveyor belt and then run through it. As discussed in the Memorandum infra, the X-ray system is not an issue for purposes of ruling without an evidentiary hearing. Since the guard mans both, however, the metal detector and X-ray system will hereinafter be referred to as "the system").

The system is manned during normal building hours of 8:30 a. m. to 5:00 p. m. by at least one guard employed by SC Security, Inc., which is a division of KL Smith Company, Inc., a Virginia corporation, providing security services. He wears the standard SC Security uniform consisting of white shirt, name tag, and

blue pants with red stripe down the side. A pistol is strapped to his side in a holster. SC Security, Inc., is under contract with the GSA to provide guard service for the building. The guard reports to John Ferguson of the Federal Protective Service, a division of the GSA. No stationary metal detector is located anywhere else in the building. Occasionally, the guard will also employ a hand held metal detector.

On the left as one enters the front is a door leading to a waiting area for claimants for Social Security Disability Insurance Benefits or Supplemental Security Income, their attorneys, witnesses and friends, who have a hearing before an Administrative Law Judge in the adjoining Hearing Room. Also, employees of the Social Security Administration Office of Hearings and Appeals use such door to enter the waiting area to further enter

their own offices. The first floor directory notes other offices, including those for IRS, GSA, Public Buildings Service, Buildings Manager, and U.S. Army FSTC. No courtroom, judge's chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices are located on the first floor, or ever have been to defendant's knowledge.

The elevator or stairs lead to the second floor which contains a court room used for U. S. Bankruptcy Court hearings. (Charlottesville has no resident bankruptcy judge. The current bankruptcy judge is William E. Anderson who drives up from Lynchburg.) It also contains offices, including the office of the U. S. Marshal and the prisoner lock up, the

FBI, Dept. of Labor, IRS, Dept. of Defense, and the Honorable J. Harvey Wilkinson, III, Judge of the Fourth Circuit Court of Appeals, and Judge's Chambers for visiting judges. The only signs posted on the second floor face opposite the elevators and merely prohibit smoking; none give notice that the entrant is about to approach a "federal court facility" within the meaning of 18 U. S. C. sec. 930. An aerial view sketch of the relevant part of the second floor is attached hereto as Exhibit H.

The same elevator or stairwell leads to the 3rd floor which contains the U. S. district court room, a public sitting area, the clerk's office, U. S. magistrate judge hearing room, the U. S. magistrate judge's chambers, a law library, judge's chambers of Judge James H. Michael, Jr., probation officers' offices, a conference room, and a U. S.

Attorney's Office used by the visiting U. S. Attorney or his assistants (Charlottesville has no resident U. S. Attorney or assistant U. S. Attorney). As on the second floor, the only signs posted are opposite the elevators and merely prohibit smoking; none warn the entrant he is about to enter a "federal court facility". An aerial view sketch of the Third Floor is attached hereto as Exhibit I. The district court is protected by Court Security Officers ("CSO's") who wear gray dress slacks and a blue blazer bearing an identifying badge. Defendant has never seen them in the U. S. Bankruptcy court room.

The system formerly was located immediately next to and in front of the doors leading to the third floor U. S. District Court room. It was then covered up and unused. Shortly before January 3,

1991, it was moved to its present location, roughly contemporaneous with GSA awarding to SC Security the building contract. To defendant's knowledge neither Judge Michael nor any other judge ordered the relocation, it simply being part of the "Plan" when SC Security got the contract. No notice to the public or the local bar was given that entrants to the building would be required to clear a metal detector.

The Chief Judge of the Western District of Virginia has never entered an administrative order requiring entrants to a federal courthouse or federal building in the Western District to clear a metal detector as a condition of entering. No order of the resident federal judge requiring such is posted anywhere in the building, and defendant is not aware of any such ever having been entered. Neither the local rules for the

Western District nor the local rules for the Bankruptcy Court for the Western District require attorneys attending court to clear a metal detector.

The only fact of operation necessary to state at this time is that, absent some other reason to search, persons who do not activate the metal detector are not asked to empty their pockets; only persons who activate the metal detector are asked to empty their pockets.

Certain persons, including building employees, have a card that they can place into an electronic device in the rear of the building which opens the rear door. They can then enter into an area where the elevators are located to reach their destination without having to go through the system. (See last photograph in Exhibit A.) They can reach any point in the building as if they had cleared

the front entrance check point system. The heavy metal utility type door on each side of the building and located at the top of a short flight of stairs adjoining each side on the outside and encased by a stairwell is unused by the public.

Defendant was licensed as an attorney and counsellor at law by the Virginia Board of Bar Examiners in 1980. He is also admitted to practice before the United States District Court for the Western District of Virginia, the U. S. Bankruptcy Court for the Western District, the Eastern District, the Fourth Circuit and the U. S. Supreme Court. He also happens to be the registered agent for SC Security, Inc., with the Virginia State Corporation Commission and its lawyer. He has been in continuous law practice as a sole practitioner in Charlottesville from graduation from the University of Virginia Law School in 1980

to the present. He has no infractions or criminal record, other than the conviction appealed herein.

Defendant's purpose in entering the building mainly is to attend meetings of creditors under 11 U. S. C. section 341 on behalf of debtor clients in bankruptcy. (Fourteen visits were made for such purpose from the inception of the system to the date of arrest.) Occasionally he enters for hearings before the Administrative Law Judge ("ALJ") of the Social Security Administration on behalf of disability claimants. (One visit for such purpose was made from inception to arrest). On still fewer occasions, he will enter for oral argument before Magistrate Judge Crigler for those disability cases that lead to suit being filed against the Secretary of Health and Human Services (none have been made since

the inception of the system). Only four times has he had a matter before Judge Michael, one being oral argument in a civil case on a FR Civ P 12(b)(6) motion to dismiss which was sustained ending the case, two being status hearings in chambers on a civil case which was voluntarily dismissed, and one being oral argument on an appeal from a bankruptcy judge final order (only the latter 3 matters were after the system was installed). Defendant used to visit the law library frequently but stopped going entirely after the system was installed due to his dislike of it.

Defendant has been in the federal court room in Harrisonburg which is on the second floor of the building in which it is located. The first floor consists of a U. S. Post Office. The metal detector is located right outside the door to the courtroom on the second floor. It

was unused and unmanned at the civil proceeding defendant attended.

Defendant has been on several occasions to the federal building in Lynchburg. There, too, the metal detector sits directly outside the courtroom door on the upper floor. It was unused and unmanned on the occasions defendant has been there. No restrictions are placed on the public as far as entering the building itself which has several entrances.

Defendant has not been in the federal building in Roanoke but is advised that there too the metal detector is outside the courtroom door.

On the occasion in question, guard Thacker orally told defendant he had set off the detector and would have to empty his pockets and walk through again. Defendant refused to do so, asserting his

rights were being violated and demanding to see a search warrant. At the time, defendant had researched the legality of the detector search, including a reading of 15 ALR Fed 932, Federal Buildings - Search on Entry, and the cases cited thereon; an investigation of the whether the regulations had been "updated" to explicitly provide for search of persons; the said demand on Mr. Thacker for authority of the government to conduct the search; the receipt of the said copy of 41 CFR 101-20.300, et. seq. which were noted essentially the same as those in the cases discussed in said 15 ALR Fed 932 article; the complete absence of any claim of order by a judge or local rule; the fact that the guards were GSA delegatees, not court security guards. Based on the foregoing, and it appearing after reasonable investigation of the facts and the law that the search was unauthorized,

defendant believed it not only his right, but his moral duty as a lawyer and a citizen, to resist the search, which he did, leading to his arrest. He was initially prosecuted under 18 U.S.C. sec. 111, but the government subsequently added charges under 41 CFR 20-101.304 and 41 CFR 20-101.305. Ultimately, the government dropped the former two charges, and proceeded solely under 41 CFR 20-101.305.

DIRECT AND CONCISE ARGUMENT AMPLIFYING THE REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT.

I & II. Lack of authority and the Fourth Amendment

When one walks through a stationary metal detector, such is a "search" within the meaning of the Fourth Amendment. United States v. Epperson, 454 F.2d 769, 770 (4th Cir. 1972) ("We agree that the use of the magnetometer in these circumstances [prior to boarding an airplane] was a 'search' within the meaning of the Fourth Amendment. By this device a government officer, without permission, discerned metal on Epperson's person. That he did so electronically rather than by patting down his outer clothing or 'frisking' may make the search more tolerable or less offensive - but it is still a search.") "The courts have consistently held that use of a magnetometer to detect the presence of metal upon

the person constitutes a search within the meaning of the Fourth Amendment." Lafave, Search and Seizure, sec. 10.6(d). Obviously, the search is made without regard to whether there is probable cause or suspicion before the person walks through the device.

Furthermore, when one empties one's pockets under compulsion, or is requested by a government officer to empty his pockets, such also is a search within the meaning of the Fourth Amendment: "However, 'an examination of the contents of a person's pocket is clearly a search, whether the pocket is emptied by the officer or by the person under the compulsion of the circumstances [citation omitted]." Burnham v. West, 681 F.Supp. 1160 (E.D. Va. 1987). "The occasions on which plaintiffs [school students at school] were required to empty their purses, bookbags, and pockets, exposing

the contents to view, were 'searches' within the meaning of the Fourth Amendment." Id. (dealing with a school principal who required all students at the school to empty the contents of their pockets and purses onto their table tops because he smelled a whiff of marijuana on the first floor and had a report that some students had come with Walkman radios). There obviously are elements of a seizure in ordering the person through the device, etc.. Also, there may be a stop, and hence a seizure, before the search, although that is not the case here.

This Court has never dealt with a case involving the legality of stationary metal detector searches at federal building that house courts such as those in which defendant practices. Indeed, the Court has never taken certiorari in cases

involving challenges to metal detector searches at airports. In McMorris v. Alioto, 567 F.2d 897 (9th Cir. 1978), cited by the court below, the ninth circuit upheld such a search at a San Francisco court hearing only criminal cases where a judge entered an order requiring such after a judge in a neighboring court been shot and killed in the court room, there had been a bomb threat against the building, and person had been found with weapons in the court room. In Justice v. Elrod, 832 F.2d 1048 (7th Cir. 1987) a search procedure in state court was upheld where a shooting incident had occurred and the defendant had not challenged below the absence of a court order authorizing the search. Some state courts have upheld such searches where the authority was posted under the "administrative search" exception to the warrant and probable cause requirement.

See, e. g., Commonwealth v. Harris, 421 N.E.2d 447, 383 Mass. 655 (1981) and State v. Cornwall, 810 P.2d 484 (Utah Ct. App. 1991).

In the criminal investigative context, this Court continues to adhere to the per se rule as furnishing the test of reasonableness of governmental search of the private citizen: "It is well settled under the Fourth and Fourteenth Amendments that a search conducted without a warrant issued upon probable cause is 'per se unreasonable... subject only to a few specifically established and well-delineated exceptions.' Katz v. United States, 389 U.S. 347, 357..." Schneckloth v. Bustamonte, 412 U. S. 218 (1973), California v. Acevedo, 111 S.Ct. 1982, 1991 (1991), Welsh v. Wisconsin, 466 U. S. 740, 749 (1983). A basic rationale of

the per se rule is that the Framers would not have gone to such great lengths to insist that individualized probable cause was a prerequisite for a warrant if the government could escape that requirement by simply proceeding without a warrant. Also, it should be recalled that Mr. Benson's alteration of the Amendment suggests an intent to expand the scope of its protection. (The original proposal at the Constitutional Convention, after a typographical change, stated,

> The right of the people to be secure in their persons, houses, papers and effects, shall not be violated by warrants issuing without probable cause, supported by oath or affirmation, and not particularly describing the place to be searched, and the persons or things to be seized.

Lasson, History and Development of the Fourth Amendment, [311] 101. Mr. Benson objected to the words "by warrants issuing". He thought the declaratory provision was not sufficient, and therefore

proposed to alter it so as to read "and no warrant shall issue." Id, thus creating the current "reasonableness clause" and "warrant clause".)

In a number of cases, however, the Court has examined searches where the purpose was other than to apprehend evidence of crime. For example, in O'Connor v. Ortega, 480 U. S. 709 (1986), the Court dealt with searches by hospital officials of work places for violations of workplace rules; Skinner v. Railway Labor Executives' Assoc., 489 U. S. 602 (1989) and its companion case National Treasury Employees Union v. Von Raab, 109 S. Ct. 1384, 1390 (1989) dealt with searches by way of urinalysis testing of workers for the purpose of determining employment suitability; and in New Jersey v. T.L.O, 469 U.S. 325 (1984) dealt with search of the effects of a school student by a school employee for evidence of

school infractions. In all these cases, the Court has declined to adopt the per se rule as furnishing the appropriate yardstick of "unreasonableness." In Skinner and Von Raab, the only cases in this Court's history authorizing suspicionless searches of the person, the Court balanced the intrusion against the goals of the search, where there were detailed regulations.

The Court below attempted to justify the search below under the "administrative search" exception to the warrant and probable cause requirement. Historically, this Court has applied such exception only in the context of searches of places, not people. See, e.g., New York v. Burger, 482 U.S. 691 (1987), Camara v. Municipal Court, 387 U. S. 523 (1967), See v. City of Seattle, 387 U. S. 541 (1966), Colonnade Catering Corp. v.

United States, 397 U. S. 72 (1969), United States v. Biswell, 406 U. S. 311 (1972), Marshall v. Barlow's, Inc., 436 U. S. 307 (1977), Donovan v. Dewey, 452 U. S. 594 (1980). Skinner and Von Raab, involving suspicionless search of the person would appear to be more closely on point if one follows this approach.

But defendant's problem with this case is that the searches appear to be penal, rather than administrative. If a weapon is found, the defendant is prosecuted criminally. There are no statutes or regulations providing for temporary holding of the weapon, forfeiture, etc.. In the administrative search cases, the initial consequences are not penal. For example, a housing inspector's search of a house may result in an order to correct a leaking roof; a mining inspector's inspection of a mine may result in an order to prop up a sagging wall; a wel-

fare worker's inspection of a house could lead to termination of benefits; a positive test of a urinalysis test could lead to loss of a job or rehabilitation classes. The government below urged the searches were necessary to detect and prosecute criminal conduct.

Furthermore, the assertion of the court below that searches conducted as part of a general regulatory scheme in furtherance of an administrative purpose, rather than as part of a criminal investigation to secure evidence of crime (opinion page 5) are permissible does not help the government. No statute or regulation authorizes search of the person. While the District Court referred to regulations dealing with building protection and security, this Court has always held the search authority must be explicit under the administrative

search exception.

"Security" could mean posting a guard or placing a camera for video monitoring. The message of the Fourth Amendment is that searches without probable cause ultimately promote governmental "insecurity" because of the anger they generate in the people. This Court has noted that a major cause of the Revolution was anger at searches done without individualized probable cause.

Also, there was no evidence adduced of the necessity of the search procedure. There was no evidence that anybody in this small town court house had ever acted in an untoward manner. There was no evidence of violence in the building that could be averted by the search procedures at issue.

In New York v. Burger, the Court set forth "three criteria" that must be met for the administrative search exception

to apply:

> First, there must be a "substantial" government interest that informs the regulatory scheme pursuant to which the inspection is made... Second, the warrantless inspections must be "necessary to further [the] regulatory scheme... Finally, "the statute's inspection program, in terms of the certainty and regularity of its application, [must] provid[e] a constitutionally adequate substitute for a warrant."

482 U. S. 691, 702-703 (1986). If the criteria for the administrative search exception are all present, then one still must ask whether the search is reasonable. Id. at 702. None of these are met in the case at bar.

The metal detectors has their advent at the airports. Their use has spread to prisons and courts. At the time of submitting this petition, their use has spread to some urban schools.

The proliferation of metal detectors presents a grave threat to freedom in

this country. No one could say that a society in which every American citizen had to walk through a metal detector at banks, post offices, grocery stores, hospitals, schools, etc. was in any meaningful sense a free society. This case presents an opportunity for the Court to provide guidance to the lower courts on the circumstances under which their use is permitted at federal buildings, if permitted at all.

If this Court should find nevertheless find that the GSA regulations do contain authority to search by metal detector, thus forcing resolution of the first question aforesaid, then defendant respectfully contends that the authority to search has not been delegated. Examining other instances where the Congress has delegated search authority to one of its agencies in specified areas shows

that when it intends to so delegate, it knows how to say so.

Moreover, not only is clear, explicit authority for the GSA to adopt search regulations for federal buildings lacking in sec. 318a, but, defendant contends, by enacting in 1988 18 U.S.C. sec. 930 dealing with the carrying of firearms and dangerous weapons in federal facilities, and by amending such statute in 1990 to deal with federal court facilities, the Congress showed it did not want "screening" performed by GSA regulation in federal buildings. At the time of a 1990 amendment to this section, the GSA amended its regulation, 41 CFR 101-20.314 to delete therefrom the prohibition against carrying firearms or other dangerous or deadly weapons openly or concealed, leaving the regulation solely directed against carrying explosives except for

official purposes.

It is apparent that in at least one respect the 1988 enactment, coupled with the GSA's corresponding amendment of its firearm regulation, represents a political victory for people advocating the right to bear arms. Previously, for example, if a Virginia resident with the requisite permit who carried a concealed weapon for purposes of personal protection carried it into the federal building during an attempt to visit an IRS officer to discuss a tax delinquency, he could be prosecuted under 41 CFR 101-20.314 and receive a 30 day jail sentence (a copy of the old regulations is part of the aforesaid ALR Fed article, Federal Buildings - Search on Entry). Violation of such regulation did not turn on whether the carrying of the weapon violated state law. As a result of the amendments, however, he now has an absolute right

under subsection (c) to carry that pistol into the IRS offices.

Also, previously if a person were on his way to the shooting range with his rifle and decided to stop at the federal building on the way to talk with such IRS officer, he could be prosecuted if he brought the rifle with him openly. Now, subsection (c) protects the right to bring the rifle with him, and no federal government agent can take it from him.

Had the Congress wanted for the GSA to make regulations for searching people by metal detector in federal facilities, it had the perfect opportunity to say so in 1988 and again in 1990. Rather, as current subsection (e) reveals, the Congress expected that the use of metal detectors would be a matter decided by court order. (This is not necessarily to admit a court could enter an order apply-

ing to the whole building rather than merely to a federal court facility).

Regulation of firearms and dangerous weapons exists to a far greater extent at the state and local level than it does at the federal level. In enacting 18 U.S.C. sec. 930, Congress was aware of the right and power to prosecute in state court any persons violating such laws (see copies in the Appendix) while in a federal facility unless the head of such facility had accepted a tender of exclusive jurisdiction from the state, thereby ousting the state of its jurisdiction.

Moreover, under the Federal Assimilative Crimes statute, 18 U.S.C. sec. 7 (3), combined with sec. 7.1-18.1 of the Code of Virginia (1950) the building is "special maritime and territorial jurisdiction." Hence, under 18 U.S.C. sec. 13 (a) whoever violates Virginia law in such

building, also violates federal law (except to the extent state law may conflict with such law, see, e. g., Williams v. United States, 327 U.S. 711, 717-24 (1946)). Thus, any person violating, for example, any of the above listed state laws in the federal building could be prosecuted in federal court for violating such law as a federal offense unless the state offense conflicted with an applicable federal offense.

In short, the Congress has spoken, and indeed has spoken recently, and has opted for the following "mix" to deal with threats of violence from people using firearms or other dangerous weapons in federal buildings:

1. penalties for explosives except for official purposes. 40 U.S.C. sec. 318a and 41 CFR 101-20.314.

2. posting of warning of such penalties. 18 U.S.C. sec. 318a.

3. penalties for firearms or other dangerous weapons, concealed or unconcealed, except where such is "lawful" and incident to "lawful purpose", or carried by law enforcement officer incident to his duties or by member of federal armed forces. 18 U.S.C. sec. 930.

4. enhanced penalties for carrying such firearms or other dangerous weapons with intent to use in a crime. Id..

5. posting of notice of such penalties. Id..

6. prosecution in state court for weapons offenses that violate non-preempted state law.

7. prosecution in federal court for weapons offenses that violate non-preempted state law. 18 U.S.C. sec. 7(3) and 13(a).

8. stiff penalties for killing or assaults against federal employees. 18 U.S.C. sec. 1114.

9. leaving unimpaired whatever power courts have to make orders regulating firearms. 18 U.S.C. sec. 930(e)

Acts of violence directed against federal buildings are described in detail in Downing, Barrett and In re Criminal Trials. As noted in those cases, the GSA

responded by adopting the predecessor of current 41 CFR 101-20.301. The GSA also responded by creating in 1971 the Federal Protective Service (FPS) consisting of uniformed GSA guards meeting special physical fitness requirements and having training in the use of firearms and detection of bombs. See Jarecki v. U. S., 590 F.2d 670 (7th Cir. 1979). It has responded no further.

Defendant respectfully contends that if the court finds that the government has met its burden as to the administrative search exception when applied to the ordinary individual, nevertheless, defendant may not be searched due to his status as a member of the bar admitted to practice before the courts in this building. Defendant grounds this view upon the proposition that the Fourth Amendment's requirements that searches be

conducted as unobtrusively as possible mandates that any group whose characteristics exclude them from the range of possible harm is in a different category from other people (In Klarfeld, Mr. Klarfeld grounded this claim on the Equal Protection component of the Due Process Clause; defendant reserves this grounds, but his grounds is coined "reverse profile" and Ortega.)

In United States v. Martinez-Fuerte, 428 U.S. 543 (1975) the Court, per Justice Powell stated, "Moreover, selective referrals - rather than questioning the occupants of every car - tend to advance some Fourth Amendment interests by minimizing the intrusion on the general motoring public." Id. at 560. In a recent case dealing with mandatory urinalysis testing of "all correctional officers", the a circuit court noted,

But the Department's interests in avoiding the dangers resulting from an impaired work force or from drug smuggling are not furthered by testing all corrections officers. Its AMUT program compels urinalysis for all correctional officers from the Executive Director to the lowest jail guard. Yet egalitarianism has nothing to do with the fourth amendment analysis in issue.

Taylor v. O'Grady, 888 F.2d 1189 (7th Cir. 1989). Noting that in the recent Von Raab opinion the Supreme Court had questioned whether the regulations defined the category more broadly than necessary, the Court struck down the regulation as applying to more people than necessary to meet the government's objective.

As noted by Justice Frankfurter in a concurring opinion,

Certainly since the time of Edward I, through all the vicissitudes of seven centuries of Anglo-American history, the legal profession has played a role all its own. The bar has not enjoyed prerogatives; it has been entrusted with anxious responsibilities. One does not have to inhale the self-adulatory bombast of after-dinner speeches to affirm that all the interests of man that are comprised

under the constitutional guarantees given to "life, liberty and property" are in the professional keeping of lawyers. It is a fair characterization of the lawyer's responsibility in our society that he stands "as a shield", to quote Devlin, J., in defense of right and to ward off wrong. From a profession charged with such responsibilities there must be exacted those qualities of truth-speaking, of a high sense of honor, of granite discretion, of the strictest observance of fiduciary responsibility, that have, through-out the centuries, been compendiously described as "moral character."

Schware v. Board of Bar Examiners, 353 U.S. 232, 247 (1956). Such case held, "A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment." Id. at 238-9. There is a right to hold specific private employment and to follow a chosen profession free from unreasonable governmental interference under the liberty and property concepts of the Fifth Amendment. Greene v. McElroy, 360 U.S. 474, 492 (1958).

Lawyers are officers of the court. Hirschkop v. Snead, 594 F.2d 356 (4th Cir. 1979). They are its fiduciaries. Standing Order for the Western District adopted August 22, 1983, appearing as No. 17 in U. S. District Court Rules for the Western District of Virginia.

The Court has noted,

> [E]ven though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose.

Shelton v. Tucker cited in Aptheker v. Secretary of State, 378 U. S. 500, 508 (1963). In this case, even though the end of safety of personnel in the building be legitimate and substantial, still that end may not be achieved by means that sweep too broadly. The government can achieve its goal of safety without

requiring attorneys, who might be considered the object of safety along with clerks, judges, etc., to be infringed upon.

The Court has stated, "... the theory that public employment which may be denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected." Keyishian v. Board of Regents, 385 U.S. 589, 607 (1966).

For at least a quarter-century, this Court has made clear that even though a person has no "right" to a valuable governmental benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests - especially, his freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited.

Perry v. Sinderman, 408 U.S. 593, 597 (1971). Even if the practice of law is a

"privilege" and not a "right", still, to deny defendant the benefit of this privilege due to his exercise of his Fourth Amendment rights when the government has no reason to believe he is a dangerous, violent employer of firearms in federal buildings is unprecedented in this nation's history.

The practice of law is a ministry, not a trade. Defendant is in essence a priest of the law. To assume that the safeguarders of the Temple are "enemies of the state" is to create conditions not unlike those found in totalitarian countries and in the Eastern European countries seen not too many years ago.

The dishonor of disbarment and the deprivation of a livelihood cannot be made the price for a lawyer asserting his rights under the Fifth Amendment. Spevack v. Klein, 385 U.S. 511, 514 (1966). By the same reasoning, the government cannot

freeze defendant out of the federal building as the price for asserting his rights under the Fourth Amendment. It does not do to say the defendant can still practice in state courts where he is not frisked or that he may have an office practice; the price sought here may not be exacted from him.

The requirements of good moral character noted in the concurring opinion in Klarfeld as applicable to California lawyers are even higher for Virginia lawyers. There must be a showing the applicant possesses the requisite "fitness to practice law." Sec. 54.1-3925 of the Code of Virginia (1950). His moral character and fitness must be "thoroughly investigated" and verified by 3 attorneys. Id.. As noted by the concurring judge in Klarfeld, "Attorneys who display current state bar membership cards and

appropriate photo identification should be admitted into the federal courthouse upon passing once through the magnetometer in the same manner as courthouse personnel." Id. at 588-9, fn 1, after noting that in the N. D. Ill., E.D. Pa. and E.D. Mich. attorneys could bypass the procedure altogether. Even in Downing it was noted that a procedure had developed where lawyers need only show their bar card to gain unrestricted entry. Id. at 1232.

Moreover, in State ex rel. McCamic v. McCoy, 276 S.E.2d 534 (W Va. 1981), an attorney challenged West Virginia's requirement that attorneys visiting the state penitentiary submit to a pat down search and inspection of their briefcase. The West Virginia Supreme Court struck down the regulation as applied to attorneys. The Court noted "the attorney occupies a different position than the general public in relation to the penal

system" and noted the legal professions's historic role in the administration of justice. Id. at 536. It held that absent specific facts or incidents of improper activity by attorneys, the state did not meet its burden of an exception to the warrant requirement.

To be protected against arbitrary and discriminatory enforcement, it is often said that laws must provide explicit standards. Hoffman Estates v. Flipside, 455 U. S. 498 (1981), citing Grayned v. City of Rockford, 408 U. S. 104, 108-109 (1972). If these regulations can be read to allow guards to make security procedures, then law enforcement officials end up making the rules. "A vague law impermissibly delegates basic policy matters to policemen, judges and juries for resolution on an ad hoc and subjective

basis, with the attendant dangers of arbitrary and discriminatory applications. Id.. The vagueness doctrine "requires legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent 'arbitrary and discriminatory enforcement.'" Smith v. Goguen, 415 U.S. 566, 573 (1973).

Defendant contends that if the regulations authorize searches, they are void for violation of the Hoffman standard. For example, the guard could require all entrants to be strip searched because in his judgment such was necessary to provide assistance for "protection" of the building due to the "drug neighborhood." Needless to say, if one interprets these regulations as granting search authority, they are void for vagueness and overbreadth.

Furthermore, the Court below erred in citing Klarfeld v. United States, 944 F.2d 583 (9th Cir. 1991) as supportive of its position. It is clear from that opinion that Klarfeld never challenged the right or authority to institute the procedure ("Klarfeld does not challenge the constitutionality of the search procedures on their face." Id. at 586). His sole challenge was to the manner of conducting the search, in that case making him take off his shoes and walk shoeless through the magnetometer. Here, the Court would not allow an evidentiary hearing to bring out the improper manner of the search.

In addition, although Klarfeld does not discuss the design of the building, it appears to be a courthouse search case, not a federal building search case. His complaint was over gaining access to

the courthouse. Defendant's is over gaining access to the whole building which doesn't even include a courthouse on the occasions he enters for Social Security hearings.

Defendant notes that in enacting 18 U.S.C. sec. 930, the Congress appeared to intend to protect the processes of governmental operations by imposing criminal sanctions against those believed to present a potential threat through weapons. Obviously, one of those processes is justice administered in courts located in those buildings. Thus, Congress appeared to wish to protect attorneys as well as those who work in the building. To arbitrarily distinguish between those who work there, a class which may be more violent prone than attorneys, and let them enter without being searched, and attorneys has no basis under the statute.

The search procedures here evidence

governmental employees who conceive of the tax paying public as existing for their benefit, rather than the government existing for the people's benefits. Bureaucrats can dictate to the people whether they will be searched, without authorizing legislation from their elected representatives. These are the hallmarks of tyranny, not a free society.

Defendant also respectfully suggests that the Court needs to rethink the legitimacy of making a distinction based on the purpose of the search, i.e., criminal investigative versus administrative. Indeed, the very types of searches that so enraged the people of this country as to lead them to a bloody and violent revolution were of the "administrative" variety. When James Otis inveighed against the writs of assistance in Boston Superior Court, the grievance was over

the entry onto ships to seize molasses used to manufacture rum in New England; the consequences were forfeiture, taxation and fines, not criminal prosecutions.

The approach which asks what is the purpose of the search simply has no textual or historical basis to it, and the creation of the "administrative search" exception allows the exception to swallow the rule. As noted by one court, "The problem is that there seems no rational limit to what searches can be ultimately justified on the basis of [Camara] and [See] once the reasoning of those cases is expanded beyond facts which involved detection of local building code violations." United States v. Barbera, 514 F.2d 294, 299 fn. 12 (1975).

If this Court should approve the search conducted here, then defendant respectfully submits it would be the

first time in the history of this Nation that a governmental search would be authorized without warrant, probable cause, articulable suspicion, "mere" suspicion, and without an authorizing statute or regulation. Such a search is one conducted in a society in which there is no law, a lawless society, the law of the jungle.

III. First Amendment

As has been observed in the context of religious freedoms, "It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of or placing of conditions upon a benefit or privilege." Sherbert v. Verner, 374 U.S. 398, 404 (1962). And it has been held in the free speech context,

> the fact that no direct restraint or punishment is imposed upon speech or assembly does not determine the free speech question. Under some circum-

stances, indirect "discouragements" undoubtedly have the same coercive effect upon the exercise of First Amendment rights as imprisonment, fines, injunctions or taxes. A requirement that adherents of particular religious faiths or political parties wear identifying arm-bands, for example, is obviously of this nature.

American Communications Assn. v. Douds, 339 U.S. 382, 402. In this case, the indirect discouragement of the search process has the same coercive effect as imprisonment, fines, injunctions or taxes.

IV. Fifth Amendment

It is obvious that the existence of metal detectors can have a chilling effect on public attendance at the court room. If that is not obvious, the district court should have granted an evidentiary hearing to present evidence on that issue. Defendant had a right as a practicing lawyer to practice in a court where the public feels welcome to come;

he also had a right for the public to feel welcome to come at his trial herein.

On the occasion in question, there was a long line of people backed up at the detection machinery. No visitor's interests are advanced if he has to wait one half hour in line while lawyers and U. S. Trustees with federal security clearances stand in line ahead of him.

V. Does "Willfuly" equal "Intentionally" in the information?

In this instance, the regulation does not by express terms require that the acts be engaged in with any mens rea. The Court of Appeals noted, however, that the government must prove a mens rea that the defendant acted knowingly and willfuly. In opining that the allegation "knowingly and intentionally" was tantamount to "knowingly and willfuly" (opinion page 4), the court's decision con-

flicts with a long line of decisions of this Court. See Felton v. United States, 96 U.S. 699, 702 (1877); Potter v. United States, 155 U.S. 438, 446 (1894); Spurr v. United States, 174 U.S. 728, 734-735 (1898); Rosen v. United States, 161 U.S. 29, 33 (1895); U.S. v. Illinois Cent. R. Co., 303 U.S. 239 (1937); United States v. Murdock, 290 U.S. 387 (1933).

VI. Failure to describe conduct or duties in the information

The lower court found that the information, tracking in pertinent part the language of the regulation, adequately informed the defendant of what he was charged with. In so concluding, the Court ran afoul of this Court's long standing view that a criminal charge in general terms must "descend to the particulars." United States v. Cruikshank, 92 U.S. 543, 558 cited in Russell v.

United States, 369 U.S. 749, 765 (1961). The lower court further erred in concluding that a bill of particulars could save the information. Such view contravened Russell at 770: "[A] bill of particulars cannot save an invalid indictment."

CONCLUSION

Since no federal statute, federal agency regulation, federal court order, federal court rule, or law of Virginia authorized searching the defendant attorney by stationary metal detector at the entrance to the building in which is located the U. S. Bankruptcy Court he sought to attend to do his job, defendant had not only the right, but the duty, to refuse to empty his pockets after walking through the detector. Such refusal could not validly form the basis of a federal prosecution for obstructing the use of the entrance, impeding the performance of duties by government employees, and preventing the public from obtaining services on the property under 41 CFR sec. 101-20.305, 40 USC sec. 318a. Moreover, the search was unreasonable under the Fourth Amendment, and in violation of defendant's free speech rights

under the First Amendment and right to a pubic trial under the Fifth Amendment. Since the information failed to allege acts done "willfuly" and to describe the allegedly illegal conduct, it was insufficient on its face.

Defendant's timely pre-trial motion to dismiss the information on the above grounds should have been granted. The judgment of the Court of Appeals should be vacated with directions that the information be dismissed, or, in the alternative, that defendant be given an evidentiary hearing to establish the unreasonableness of the search of him.

Respectfully submitted,

NORMAN HUNTER LAMSON

By Norman Hunter Lamson
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APPENDIX

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	Criminal
	)	No. 92-41
	)	
	)	
NORMAN HUNTER LAMSON	)	

I N F O R M A T I O N

COUNT ONE

The United States Attorney charges:

1. That on or about January 16, 1992, in Charlottesville, in the Western Judicial District of Virginia, NORMAN HUNTER LAMSON knowingly and intentionally failed and refused to comply with official signs of a prohibitory and regulatory and directory nature and with the lawful direction of Federal Protective Agent John Ferguson and of Ronnie Thacker, in that NORMAN HUNTER LAMSON refused to

comply with security procedures.

2. All in violation of 41 Code of Federal Regulations, 101-20.304.

COUNT TWO

The United States Attorney charges:

1. That on or about January 16, 1992, in Charlottesville, in the Western Judicial District of Virginia, NORMAN HUNTER LAMSON knowingly and intentionally engaged in conduct which unreasonably obstructed the usual use of the entrance, foyer, lobby, and corridor of the United States Federal Courthouse Building, and which conduct impeded and disrupted the performance of official duties by Government employees, and which conduct prevented the general public from obtaining the administrative services provided on the property in a timely manner.

2. All in violation of 41 Code of Federal Regulations 101-20.305

Karen B. Peters for

E. MONTGOMERY TUCKER
Acting UNITED STATES
ATTORNEY

Date: June 8, 1992

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee

v.

NORMAN HUNTER LAMSON,
Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Virginia, at Charlottesville.
Samuel G. Wilson, District Judge.
(CR-92-41-C)

Submitted: April 7, 1993

Decided: May 20, 1993

Before MURNAGHAN and WILKINS, Circuit Judges, and CHAPMAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Norman Hunter Lamson, Appellant Pro Se.
Ruth Elizabeth Plagenhoef, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding

precedent in this circuit. See I.O.P. 36.5 and 36.6.

OPINION

PER CURIAM

Norman Hunter Lamson appeals from his conviction for impeding and disrupting the performance of official duties by Government employees, in violation of 41 C.F.R. 101-20.305 (1992). After considering Lamson's multifarious attacks, we find no error and, accordingly, affirm his conviction and sentence.

I.

On January 16, 1992, Lamson, an attorney in Charlottesville, Virginia, refused repeated requests by United States Deputy Marshal Barry Surles and General Services Administration ("GSA") Federal Protective Services employee John Ferguson to submit to GSA security screening procedures before entering the

Federal Courthouse Building in Charlottesville (the "Courthouse"). Specifically, Lamson refused to walk through a magnetometer[1] and to submit his files to X-ray inspection. Finally, after repeated warnings by Surles that Lamson was interfering with his official duties and that continued disruptions would result in Lamson's arrest, Lamson agreed to walk through the magnetometer while holding his files. When the magnetometer went off, indicating high levels of metal on Lamson's person, Lamson ignored Surles' orders to stop and continued walking. After pulling away from Surles' grasp, Lamson was arrested. The entire encounter lasted about thirty minutes, delayed the

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1. A magnetometer is a device, fashioned like a door frame, for the detection of levels of metal carried and concealed on a person's body. The unit has an attached X-ray machine used to screen packages.

entry of several persons into the building, and allowed at least one other person who had set off the magnetometer to get into the building without undergoing further screening procedures.

Evidence presented at the one-day bench trial showed that, at the time of the incident, signs posted at the building's entrance required persons entering the building to submit to a security check and set forth all relevant statutes, rules, and regulations, including 101-20.305. Surles testified that, on the day of the incident, extra security precautions were being taken due to the crisis in the Persian Gulf, two active courts in session, and the presence of a high risk prisoner with serious medical problems who had threatened Marshal Service and court personnel. There was evidence that, in May 1991 after causing

a similar disturbance at the courthouse, Lamson ultimately submitted to the screening procedures.

Lamson was convicted of the offense, based on the court's findings that Lamson's conduct unreasonably obstructed the usual use of the usual use of the Courthouse's entrance, impeded and disrupted Surles and Ferguson in the performance of their official duties, and prevented the general public from obtaining the administrative services provided by the various agencies within the Courthouse[2] in a timely manner. He was sentenced to one year probation and a $500 fine, with the execution of payment of $250 suspended.

II.

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2. The Courthouse contains offices for Social Security, the Department of Defense, GSA, the Internal Revenue Service, and the federal courts.

A.

Lamson begins with a tripartite challenge to the facial validity of the bill of information, citing its failure to: (1) allege that the incident occurred on property under GSA control; (2) allege that his conduct was willful and unlawful; and (3) describe the conduct and official duties purportedly impeded and disrupted by Lamson. We determine the sufficiency of an information by practical, rather than technical, considerations. See United States v. Cobb, 905 F.2d 784 (4th Cir. 1990), cert. denied, 59 U.S.L.W. 3482 (U.S. 1991). We find the information is indeed valid, because its statement of the offense's elements is sufficiently detailed as to enable Lamson to prepare his defense, as evidenced by his extensive pretrial pleadings, including a thirteen-page affidavit and three briefs totalling in excess of 100 pages.

See United States v. Miller, 471 U.S. 130 (1985); United States v. Fogel, 901 F.2d 23 (4th Cir.), cert. denied, 498 U.S. 939 (1990).

Section 101-20.305 requires only that the alleged conduct occur on government property. United States v. Brice, 926 F.2d 925, 928 (9th Cir. 1991). The information sufficiently alleged that the incident occurred in the Courthouse. Any additional allegation that the Courthouse was under GSA control was unnecessary. Fed. R. Crim. P. 7(c)(1). Moreover, the absence of an allegation that Lamson's acts were done "unlawfully" is irrelevant, because 101-20.305 does not expressly set forth "unlawfully" as an essential element. See United States v. Rohn, 964 F.2d 310, 312-13 & n.2 (4th Cir. 1992).

As a general intent crime, 101-20.305 does require proof that the acts were done knowingly and willfully. Brice, 926 F.2d at 929-30; see also United States v. Lewis, 780 F.2d 1140, 1142 (4th Cir. 1986) (absent explicit requirement of specific intent, a criminal charge is presumed to be a general intent crime). The information alleged that Lamson acted "knowingly and intentionally." We find that any distinction between willfully and intentionally in this case is inconsequential because they are "adverb[s] of similar import and context" that contemplate a voluntary or conscious, as opposed to involuntary or inadvertent, exercise of one's will. Fogel, 901 F.2d at 25; see United States v. Grande, 620 F.2d 1026, 1036 (4th Cir.), cert. denied, 449 U.S. 830 (1980); United States v. Moore, 586 F.2d 1029, 1032 (4th Cir. 1978). "The use of either term to de-

scribe the criminal mind of the appellant would have been sufficient to inform the appellant of the charge against him." Fogel, 901 F.2d at 25.

Finally, the information is not vitiated by its failure to describe the conduct and official duties purportedly impeded and disrupted by Lamson's behavior. If additional facts were needed, Lamson's available remedy was a motion for a bill of particulars.[3] United States

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3. Lamson also appeals the district court's denial of his motion for a bill of particulars for information pertaining to the time and place of the disturbance and the official duties purportedly disrupted by Lamson's acts. Because Lamson's pretrial pleadings indicate that he already had access to this information and because the Government maintained an open-file policy throughout this case, see United States v. Duncan, 598 F.2d 839, 849 (4th Cir.), cert. denied, 444 U.S. 871 (1979), we find the court did not abuse its discretion in denying Lamson's motion and Lamson suffered no actual prejudice thereby. United States v. Bales, 813 F.2d 1289 (4th Cir. 1987).

v. American Waste Fibers Co., 809 F.2d 1044, 1047 (4th Cir. 1987).

B.

Lamson argues his conviction is invalid due to the illegality of the underlying magnetometer search, in violation of his First and Fourth Amendment rights and his Sixth Amendment right to a public trial. However, the "administrative search" exception to the Fourth Amendment permits the "limited warrantless search of a person seeking to enter sensitive facilities ... if `conducted as part of a general regulatory scheme in furtherance of an administrative purpose, rather than as part of a criminal investigation to secure evidence of crime.'" Klarfeld v. United States, 944 F.2d 583, 586 (9th Cir. 1991) (quoting United States v. $124,570 U.S. Currency, 873 F.2d 1240, 1243 (9th Cir. 1989)). We find

that the requested magnetometer and X-ray screening was constitutionally reasonable, minimally intrusive, consistent with the vital, legitimate government interest of protecting the Courthouse and the federal employees and general public therein from violence, and not violative of Lamson's Fourth Amendment rights. McMorris v. Alioto, 567 F.2d 897 (9th Cir. 1978). We find no support for Lamson's assertion that the search infringed his First Amendment right to free speech or Sixth Amendment right to a public trial. Hence, the constitutionally permissible magnetometer search does not invalidate Lamson's conviction.

C.

Lamson's argument that the court erred by not holding an evidentiary hearing on his motion to dismiss is also unavailing. The court obviated the need

for a hearing by presuming the truth of all matters set forth in Lamson's affidavit. As no other reason for conducting an evidentiary hearing was forthcoming, the court's refusal to conduct such a hearing was appropriate.

D.

Lamson claims the district court erred by denying his motion for a jury trial. However, as a class C misdemeanor under 18 U.S.C. 3559(a)(8) (1988), 101-20.305 is a "petty offense" under 18 U.S.C. 19 (1988). Because there is no constitutional right to a jury trial for a petty offense, the court properly denied Lamson's motion for jury trial. United States v. Coppins, 953 F.2d 86, 89 (4th Cir. 1991).

E.

Finally, Lamson challenges the suffi-

ciency of the evidence to support his conviction. The pertinent inquiry on such a challenge is whether, taking the evidence in the light most favorable to the government, any reasonable trier of fact could have found Lamson guilty on the charge beyond a reasonable doubt. United States v. Giunta, 925 F.2d 758, 764 (4th Cir. 1991). Our review of the record indicates that, in addition to the mental elements and location of the conduct discussed above, the Government proved beyond a reasonable doubt that (1) a copy of the regulation was posted in a conspicuous place on the property, (2) Surles and Ferguson were government employees, and (3) Lamson's conduct unreasonably obstructed the usual use of the entrance, and impeded and disrupted Surles and Ferguson in the performance of their official duties, and prevented the general public from obtaining the admin-

istrative services provided on the property in a timely manner. Brice, 926 F.2d at 925; see also United States v. Bader, 698 F.2d 553, 554-55 (1st Cir. 1983) (the government need prove only one of the alternative categories listed in the regulation). Hence, the evidence presented amply supported Lamson's conviction.

III.

For the reasons stated herein, we affirm Lamson's conviction and sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED

CAVALIER REPORTING

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA,	*
Plaintiff,	*
Case No. 92-8; 92-41	*
-vs-	*
NORMAN HUNTER LAMSON,	*
Defendant.	*

BEFORE:

THE HONORABLE SAMUEL G. WILSON, JUDGE

October 23, 1992

10:35 a.m. - 11:05 a.m.

Charlottesville, Virginia

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CAVALIER REPORTING
****

CHARLOTTESVILLE
CORPORATE HEADQUARTERS: 100 Court Square, Suite-12, P.O. BOX 2425, Charlottesville, VA 22902

REPORTED BY: Lori L. Ballard

...

requirement. And they -- I think that willfully would have to be alleged, and I think that they would have to allege that these actions were done unlawfully. Neither one of those appears in the charge as it's presently constituted.

THE COURT: All right. What's your next argument?

MR. LAMSON: The next grounds in support of the motion to dismiss, your Honor, is the Fourth Amendment grounds.

THE COURT: All right. You've articulated that once before. Is there anything else at ?

on the grounds that you would like to articulate at this time that you haven't covered before?

MR. LAMSON: It's, it's in my memorandum and in my brief, in my prior argument, as well as the First and Fifth Amendment grounds;

THE COURT: Well, what's this First -- Oh, we covered that before. And the Court has already -- just doesn't see anything in the First Amendment grounds at all.

We've articulated that before on the record. There's no chilling of any First Amendment right here. All right. And so - And your Fifth Amendment is --

MR. LAMSON: The access of the public, the right of a defendant to have spectators

at his trial and have, have the public appear, the chilling affect of people coming to court by having the metal detector.

THE COURT: I find those arguments to be frivolous. I don't find anything in those arguments.

You weren't even coming to court, were you? You were coming to use the library.

MR. LAMSON: No, I was coming to a Section 341 meeting in Bankruptcy Court, in fact, in this room.

Is, is your Honor making a ruling, then, at this time on the Fourth Amendment grounds?

THE COURT: Right; you just said it. You just -- No, I hadn't gotten to the Fourth

Amendment; we just talked about the Fifth Amendment. I didn't find anything; I mean, I just find it to be frivolous.

I don't, I don't see any merit to any of them. I don't think it requires any expounding, extrapolation of the law on the record. It seems fairly clear that it's frivolous.

Now, what's the -- What's your Fourth Amendment ground?

MR. LAMSON: Your Honor, the Fourth Amendment ground is the, is the grounds that I, I've set forth in my, in my memorandum in support of my motion to dismiss and, and in my reply grounds as well. And that is, of course, that first of all, there has to be a, a statute, as a general rule, that authorizes.

THE COURT: Well, we do. We have a statute, don't we?

MR. LAMSON: Which one is that, Judge?

THE COURT: We have a regulation, don't we?

MR. LAMSON: No, sir. We have a regulation that authorizes packages, brief cases, and parcels. And that has been upheld under court challenge; that was adopted in 1970 after there had been bombings in federal buildings. And there have been three challenges to that, that appear in that federal trilogy, AR citation, federal building search on entry.

THE COURT: Well, let's start out with Title 18, Section 930, Section on firearms and dangerous weapons in federal

facilities. Then we have -- that prohibits them. Then we have Section 318 that deals with the appointment of special police and their powers, and so on and so forth, of Title 40.

Then we have the Code of Federal Regulation, dealing with the management of buildings and grounds contained in part 101-20, sub part, 101-19.49, scope of sub part of -- Let's see -- of 41 CFR. And that provides, 101-20 provides, that the regulations of this part prescribe policies and procedures for the management, operation, and protection and maintenance of government-owned and leased buildings and grounds under the assignment responsibility of GSA.

Now, this building falls under those

categories, doesn't it?

MR. LAMSON: Yes, sir.

THE COURT: All right. What is this? It's a leased building, isn't it? So it falls under Section 101-20.002-2.

Then we have Section 101-20.103-1 that provides for the standard protection: For properties under its custody and control, the GSA will provide standard protection services. And they're outlined in that section.

Then under Section 101-20.300, we have conduct on federal property; applicability is set forth there. Section 101-20.301: Packages, briefcases, and others containers in the immediate possession of visitors, employees, or other persons arriving on, working at, visiting or

departing from federal property are subject to inspection. A full search of the person, any vehicle driven or occupied by a person may accompany an arrest. Of course, that last section doesn't apply, but the first part does.
So we have that.

Then we have section 101-20.304, conforming with signs and directions: Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the lawful direction of federal protective officers and other authorized individuals.

Then we have 101-20.305. Then the penalties are set forth in 101-20.315.

Now, it's seems to me that all of the

regulatory and statutory provisions are fully taken care of, and then we have this decision that was decided by, by Judge Kennedy, then Judge Kennedy on the Ninth Circuit in 1978 in the case of McMorris versus Alioto, which is found at 567 Fed. 2nd 867, 1978, as I indicated, a Ninth Circuit case, in which -- involves a lawyer that had the same, the same general problems you seem to have with this -- these provisions.

Have you read the case?

MR. LAMSON: Yes, sir.

THE COURT: Well, what's wrong with it? And why, why wouldn't I just follow that case and move on with this thing?

MR. LAMSON: Well, first of all, as I say, in everything you've read previously,

Judge, I haven't seen anything in there that says that they can search people by metal detector.

When you walk through a stationary metal --

THE COURT: If you've got the right to search, what's wrong with a metal detector?

MR. LAMSON: Where does the right come from? Where is the -

THE COURT: The right to search.

I'm not going to spend any time on that, counsel. Move on.

MR. LAMSON: Your Honor, in the -- oh, on the McMorris case, there was an order

entered. It was -- dealt only with criminal cases; and the positioning was at place so that people trying to get to the labs would be blocked, the, the district attorney's office and other offices, that I don't think would be inherently public.

In this case, it's positioned so that it blocks access to public facilities, and that people have a right to get to. It hasn't been an order entered, and it hasn't been an order posted.: So respectfully feel that case is distinguishing.

THE COURT: What do you mean an order posted? You mean from the Court? Well, you don't have to have a court order, do you?

MR. LAMSON: I, I think, I think at least you do.

THE COURT: Well, this is a GSA building. We just went through the regulations. I don't find any merit to that argument at all. I don't see any Fourth Amendment problem here. Is there anything else that we haven't -- that you haven't called my attention to?

They weren't searching you for anything other than your entry into the building, were they? You were free to leave at any time, weren't you? I mean, you didn't have to submit to it, did you?

MR. LAMSON: I don't think it's a consent type of situation, Judge. You know, I have been coming to this building for 12 years. And I, I just don't think it's consent. I don't think people consent. Certainly, witnesses that are subpoenaed don't consent. And jurors that are summoned. A lot of people are thrust into a court in an involuntary situation.

So, you know, I think the, the choice You say I can choose to, to not come here, to just give up my practice and stay away. I just don't think that argument is valid.

And I don't think the Supreme Court has followed in the Biswell case, where they say in the administrative search context, the validity of the search depends on the valid statute and not on consent. And --

THE COURT: Well, we have a valid statute, and we also have consent, as far as I'm concerned.

MR. LAMSON: Well, I, I respectfully disagree with that, Judge. I don't think that, you know, you can talk about consent. I mean, the Government can say that everybody that picks up a telephone, you know, is deemed to consent to eavesdropping. And you can say, Well, we gave

notice to everybody, that means there's consent.

I don't think there's consent under those types of circumstances. It's an inherently coercive situation. I mean, these, these buildings, these facilities are places where people have a right to go; they have a right to come.

It's not like the motor vehicles in the Sitz case or Martinez-Fuertes, where you have to have a license to get on the road, and the government can regulate you. Or, again, in Martinez-Fuertes, where again, the Congress can keep people out of the country, if it wants to. As I understand, it has the right to exclude everybody from coming in.

And the right to exclude the public

includes the right to test conditions. Even there, they need suspicion before they can search.

Justice Powell on three occasions said emphasized he was only authorizing suspicion to stop the motor vehicles.

THE COURT: I don't see any principle distinction that you're able to draw, and I don't think that McMorris is now bad law by any stretch of the imagination. You haven't distinguished it sufficiently by -- in essence.

You're moving all over the board to areas having absolutely nothing to do with the issues before you.

Let me hear from the Government. What's the Government's position on this?

MS. PLAGENHOEF: Your Honor, I believe we're talking about motion to dismiss the Count Two of the information; is that correct, now?

THE COURT: Right.

MS. PLAGENHOEF: I don't have anything to add, other than what is in my brief already. I do think the McMorris case, which I cited in there is test positive.

As far as the motions to dismiss go on their face, this is
- There's no reason to dismiss it at this point in time. I'm sure Mr. Lamson, if he -- if some factual thing comes out at trial, he can re-urge them if --

THE COURT: I don't see anything at this point either.

MS. PLAGENHOEF: -- it turns out he's been subjected to some unreasonable search, but that's not for this forum.

Does he still have more? I, I have some other things I have to ask the Court about, but --

THE COURT: We'll get on to those. Let's make sure that we, we've finished all the motions that Mr. Lamson has.

Mr. Lamson, as you obviously can tell, I feel that many of what -- much of what you have offered is frivolous. I, I share in the concerns that you have that it's intrusive for people to have to be searched coming into the federal building.

But I also agree with the very reasoning

and logic that Judge Kennedy, now Justice Kennedy, made in the decision that I cited. And the court, as Judge Kennedy pointed out, can take judicial notice of many of these factors, and I do so, to justify a search of persons entering a federal building of this nation. It has in it probation, the courts; it has in it a drug task force; it has all of these, all of these offices and buildings in it, all these offices in it and all of these agencies in it that carry out the sensitive functions; that they are legitimate concerns, and I find the need for search often to be a compelling one.

And, you know, I just -- I find no merit to your arguments at all.

Now, what other motions do you have?

MR. LAMSON: Well, I still have pending the request for an evidentiary hearing.

THE COURT: What are we, what are we going to do at an evidentiary hearing? What are we going to hear?

MR. LAMSON: Well, the matter is in my affidavit.

THE COURT: But you -- That's right. And the court is taking all the matters in your affidavit up. I'm assuming those for purposes of your motion. You have raised all of those in your affidavit. I haven't heard anything; I mean, you have you have briefed it. You have set forth your own position. You have not been shy about it at all.

And there's nothing in any of that. There's no factual -- There's nothing for

the Court to determine factually. It's all laid out on the record. Assuming all those things, I don't see what, what I'd be conducting an evidentiary hearing on.

I mean what is it you want me -- What factual thing-would I be deciding in an evidentiary hearing?

MR. LAMSON: I think you would, you would, for example, be seeing that the people are having pocket knives seized that are not two-and-a-half inches in length, that don't have --

THE COURT: Well, how does that apply to you?

MR. LAMSON: Well, for one thing, I mean, these people are my clients, to a certain extent, and it interferes with my rela-

tionship with them. And there's authority that, when it interferes with a, a contractual relationship that I can assert their interests. I have standing to do so.

I can't recall the name of the case, offhand, Judge, but that is how it's argued.

THE COURT: All right. I don't find any merit to it, to such an argument. You're here on your own. You're not here asserting any rights of your clients. There's no -- We are dealing with your particular fact situation. And you have laid that out abundantly in all of your pleadings before the Court.

And I can't -- You have not articulated for me anything on which I would take -- conduct an evidentiary hearing on.

There's nothing that I know that I would then find.

Is there anything else?

MR. LAMSON: Yes, I have a motion for bill of particulars on the remaining Count Two.

THE COURT: You understand what you're -It's a petty offense. You understand what you're charged with. You're prepared; you understand what

...

RELEVANT UNITED STATES CODE STATUTES AND REGULATIONS

40 United States Code sec. 751. General Services Administration

(a) Establishment

There is established an agency, in the executive branch of the Government which shall be known as the General Services Administration.

(b) Administrator of General Services; appointment

There shall be at the head of the General Services Administration an Administrator of General Services who shall be appointed by the President with the advice and consent of the Senate, and perform his functions subject to the direction and control of the President.

...

40 U.S.C. sec. 486. Policies, regula-

tions, and delegations

(a) Promulgation by President

...

(b) Accounting principles and standards

...

(c) Regulations by Administrator

The Administrator shall prescribe such regulations as he deems necessary to effectuate his functions under this Act...

40 U.S.C. sec. 318. Protection of Federal property under jurisdiction of Administrator of General Services; appointment of guards as special policemen; compensation; duties; jurisdiction

The Administrator of General Services or officials of the General Services Administration duly authorized by him may appoint uniformed guards of said Administration as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas under the

jurisdiction of the Administrator of General Services. Such special policemen shall have the same powers as sheriffs and constables upon such Federal property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the General Services Administration for the property under their jurisdiction: Provided, That the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process and shall be restricted to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction.

318a. Rules and regulations; posting

The Administrator of General Services or officials of the General Services Administration duly authorized by him are authorized to make all needful rules and regulations for the government of the Federal property under their charge and control, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in section 318c of this title, as will insure their enforcement: Provided, That such rules and regulations shall be posted and kept posted in a conspicuous place on such Federal property.

(June 1, 1948, c. 359, 2, 62 Stat. 281; June 30, 1949, c. 288, Title I, 103(a), 63 Stat. 380.)

18 U.S.C. sec. 930. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection

(c), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) Subsection (a) shall not apply to

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who

is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).

(e) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(f) As used in this section:

(1) The term "Federal facility" means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term "dangerous weapon"

means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

(3) The term "Federal court facility" means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States Attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(g) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of

subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (d) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (d), as the case may be.

(Added Pub.L 100-690, Title VI, 6215(a), Nov. 18, 1988, 102 Stat. 4361, and amended Pub.L. 104 Stat. 4857.)

Historical and Statutory Notes

Effective Date of 1990 Amendment. Section 2205(b) of Pub.L. 101-647 provided that: "The amendments made by subsection (a) [amending subsec. (a), enacting subsec. (d), redesignating as subsec. (e) former subsec. (d), redesignating as subsec. (f) former subsec. (e) and enacting subsec. (f)(3), and redesignating as subsec. (g)

former subsec. (f) and amending subsec. (g) of this section] shall apply to conduct engaged in after the date of the enactment of this Act [Nov. 29, 1990]."

41 Code of Federal Regulations Ch. 101

Subpart 101-20.3 - Conduct on Federal Property.

101-20.300 Applicability.

These rules and regulations apply to all property under the charge and control of the General Services Administration and to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of these rules and regulations.

101-20.301 Inspection.

Packages, briefcases, and other containers in the immediate possession of visitors, employees, or other persons

arriving on, working at, visiting, or departing from Federal property, are subject to inspection. A full search of a person and any vehicle driven or occupied by the person may accompany an arrest.

101-20.302 Admission to property.

Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by subpart 101-20.4. During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency program after consul-

tation with the buildings manager and the ranking representative of the Law Enforcement Branch responsible for protection of the facility or the area. The designated official is defined in 101-20.003(g) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested, display Government or other identifying credentials to the Federal Protective Officers or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the applicable provisions is a violation of these regu-

lations.

[53 FR 129, Jan. 5, 1988]

101-20.303 Preservation of property.

The improper disposal of rubbish on property, the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building or climbing upon the statues, fountains, or any part of the building, is prohibited.

101-20.304 Conformity with signs and directions.

Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the lawful direction of Federal Protective Officers and other authorized individuals.

101-20.305 Disturbances.

Any loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance: which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

101-20.306 Gambling.

Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition

shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.)

101-20.307 Alcoholic beverages and narcotics.

Operations of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. The prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed

physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the buildings manager and the Chief, Law Enforcement Branch, or other authorized officials, responsible for the security of the property.

[53 FR 129, Jan. 5, 1988]

101-20.308 Soliciting, vending, and debt collection.

Soliciting alms, commercial or political soliciting, and vending of all

kinds, displaying or distributing commercial advertising, or collecting private debts on GSA-controlled property is prohibited. This rule does not apply to:

(a) National or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR, parts 110 and 950, Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations issued by the U.S. Office of Personnel Management under Executive Order 12353 of March 23, 1982, as amended, and sponsored or approved by the occupant agencies;

(b) Concessions or personal notices posted by employees on authorized bulletin boards;

(c) Solicitation of labor organization membership or dues authorized by

occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95454); and

(d) Lessee, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 490(a)(16)).

NOTE: Public areas of GSA-controlled property may be used for other activities permitted in accordance with subpart 101 20.4.

[53 FR 130, Jan, 5, 1988]

101-20.309 Posting and distributing materials.

Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in 101-20.308 or when these displays are conducted as part of

authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public areas of the property as defined in 101-20.003(z), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under subpart 101-20.4 and shall conduct distribution in accordance with the provisions of subpart 101-20.4. Failure to comply with those provisions is a violation of these regulations.

[52 FR 11263, Apr. 8, 1987: 52 FR 24158, July 29, 1987]

101-20-310 Photographs for news, advertising, or commercial purposes.

Photographs may be taken in space occupied by a tenant agency only with the consent of the occupying agency con-

cerned. Except where security regulations apply or a Federal court order or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

101-20.311 Dogs and other animals.

Dogs and other animals, except seeing eye dogs, other guide dogs, and animals used to guide or assist handicapped persons, shall not be brought upon property for other than official purposes.

101-20.312 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal protective officers or other authorized individuals and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited;

(c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may

be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part thereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

101-20.313 Explosives.

No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code 930.)

[54 FR 15757. Apr. 19. 1989]

101-20.314 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the property.

101-20.315 Penalties and other laws.

Whoever shall be found guilty of violating any rule or regulations in this subpart 101-20.3 while on any property under the charge and control of the U.S. General Services Administration is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both (See title 40 U.S. Code 318c.) Nothing in these rules and regulations

shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area n which the property is situated (section 205(c), 63 U.S. Statutes, 390; 40 U.S. Code 486(c)).

[53 FR 130, Jan. 5. 1988]

PART 101-20 - MANAGEMENT OF BUILDINGS AND GROUNDS

Sec.

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101-20.500 Scope of subpart.

101-20.501 Responsibilities.

101-20.502 Standards.

Authority: Sec. 205(c), 63 Stat. 390: 40

U.S.C. 486(c).

SOURCE: 52 FR 11263, Apr. 8, 1987, unless otherwise noted.

101-20.000 Scope of part

The regulations in this part prescribe policies and procedures for the management, operation, protection, and maintenance of Government-owned and leased buildings and grounds under the assignment responsibility of GSA.

101-20.001 Authority.

This part 101-20 implements the Act of July 1, 1898 (40 U.S.C. 285); the Act of April 28, 1902 (40 U.S.C. 19); the Act of March 1, 1919 (40 U.S.C. 1): the Act of June 23, 1923 (40 U.S.C. 281); the Act of May 27, 1924 (D.C. Code. 1961 ed., 4-208); the Act of June 20, 1936 (20 U.S.C. 107 et seq.); the Act of December 10, 1941 (40 U.S.C. 291); the Act of May 14, 1948 (40 U.S.C. 130); the Act of June 1,

1948 (40 U.S.C. 318 et seq.); the Federal Property and Administrative Services Act of 1949 (63 Stat. 377 as amended); the Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note; 3 CFR); the Public Buildings Act of 1950 (73 Stat. 479) as amended; and the Public Buildings Amendments of 1972 (40 U.S.C. 602a).

101-20.002 Basic policy.

It is the responsibility of GSA to provide or otherwise arrange for all services required to house occupant agencies. GSA shall provide fully service space equivalent to that furnished in commercial practice.

...

Subpart 101-20.1 - Building Operations, Maintenance, Protection, and Alterations

101-20.101 Building systems.

...

101-20.103 Physical protection and

building security.

101-20.103-1 Standard protection.

For properties under its custody and control, GSA will provide standard protection services by:

(a) Responding to criminal occurrences, incidents, and lifethreatening events through the use of Federal Protective Officers and local law enforcement officers where a response agreement is in effect.

(b) Installing and maintaining perimeter security devices and systems if they are monitored to provide timely response by authorized personnel;

(c) Implementing crime prevention activities, including tenant awareness programs;

(d) Investigating crimes and violations of Federal statutes, recording and

evaluating reports of criminal incidents, and referring findings and evidence to appropriate enforcement agencies;

(e) Entering into cooperative agreements with local law enforcement agencies;

(f) Performing physical security surveys and providing security advisory services; or

(g) Coordinating a comprehensive Occupant Emergency Program.

(h) Periodically evaluating the effectiveness of protection services by in-depth inspections of procedures and records.

101-20.103-2 Special protection.

The degree of protection beyond standard levels required by the nature of an agency's activities or by unusual

public reaction to an agency's programs will be determined jointly by GSA and the occupant agency. Special protection will be provided on a reimbursable basis. The level of special protection will be determined on a facility-by-facility basis, after the conducting of appropriate security surveys and crime prevention assessments. In such determinations, GSA and occupant agencies will consider:

(a) The characteristics of the facility, including size, configuration, exterior lighting, and presence of physical barriers;

(b) The location of the facility and the history of criminal or disruptive incidents in the surrounding neighborhoods; and

(c) The reimbursable funding and resources available to GSA for provision

of protective service.

(d) Tenant agency's mission.

...

CODE OF VIRGINIA

ARTICLE 7.

Other Illegal Weapons.

18.2-308. Carrying concealed weapons; when lawful to carry. - A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind, or (ii) any dirk, bowie knife, switch-blade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, blackjack, or (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or

propelled and which may be known as a throwing star or oriental dart, or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor, and such weapon shall be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the Division of Consolidated Laboratory Services shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in 18.2-310. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to:

1. Any person while in his own place

of abode or the curtilage thereof;

2. Any police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Chapter 2 of Title 29.1;

3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while

being transported;

6. Campus police officers appointed pursuant to Chapter 17 (23-232 et seq.) of Title 23; and

7. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail in rural districts;

2. Officers or guards of any state correctional institution;

3. [Repealed.]

4. Conservators of the peace, except that the following conservators of the

peace shall not be permitted to carry a concealed weapon without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; (d) commissioners in chancery; and

5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to 53.1-29.

D. Any person may apply in writing to the clerk of the circuit court of the county or city in which he resides for a two-year permit to carry a specific type of concealed weapon. The application shall be made on a form prepared by the clerk, requiring only that information necessary to determine eligibility for

the permit. The court, after consulting the law-enforcement authorities of the county or city and receiving a report from the Central Criminal Records Exchange, shall issue such permit if the applicant is of good character, has demonstrated a need to carry such concealed weapon, which need may include but is not limited to lawful defense and security, is physically and mentally competent to carry such weapon and is not prohibited by law from receiving, possessing, or transporting such weapon. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application and request of the applicant made within ten days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be

appointed. The final order of the court shall include the court's findings of fact and conclusions of law.

No fee shall be charged for the issuance of such permit to a person who has retired from service as a law-enforcement officer with the Department of State Police, or with a sheriff or police department, bureau or force of any political subdivision of the Commonwealth of Virginia, after completing twenty years' service or after reaching age fifty-five. The order issuing such permit shall be entered in the law order book of such court.

Any person denied a permit to carry a concealed weapon under the provisions of this subsection may, within thirty days of the final decision, present a petition for review to the Court of Appeals or any judge thereof. The petition shall be

accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of 17-116.07 B, the decision of the Court of Appeals or judge shall be final.

E. As used in this article:

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism. (Code 1950, 18.1-269; 1960, c. 358; 1964, c. 130; 1975, cc. 14, 15, 594; 1976, c. 302; 1978, c. 715; 1979, c. 642; 1980, c. 238; 1981, c. 376; 1982, cc. 71, 553; 1983, c. 529; 1984, cc. 360, 720; 1985, c. 427; 1986, cc. 57, 451, 625, 641; 1987, cc.

592, 707; 1988, cc. 359, 793.)

...

18.2-308.2. Possession or transportation of handguns or concealed weapons by certain convicted felons; penalties; petition for permit; when issued. - A. It shall be unlawful for any person who has been convicted of a Class 1, 2, 3 or 4 felony, rape, robbery, a felony violation of 18.2-248, 18.2-248.1 or 18.2-256 for which the minimum prescribed punishment is a term of imprisonment of not less than five years or a felony involving the use of a firearm under the laws of this Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or to knowingly and inten-

tionally carry about his person, hid from common observation, any weapon described in 18.2-308 A. A violation of this section shall be punishable as a Class 6 felony. Any firearm or any concealed weapon possessed, transported or carried in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in 18.2-310.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm or other weapon while carrying out his duties as a member of the armed forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, or (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting

the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms.

C. Any person convicted of a Class 1, 2, 3 or 4 felony or rape, robbery, a felony violation of 18.2-248, 18.2-248.1 or 18.2-256 for which the minimum prescribed punishment is a term of imprisonment of not less than five years or a felony involving the use of a firearm under the laws of this Commonwealth or any other state, the District of Columbia, the United States or any territory thereof, may petition the circuit court of the jurisdiction in which he resides for a permit to possess or carry a firearm. The court may, in its discretion and for good cause shown, grant such petition and issue a permit. The provisions of

this section shall not apply to any person who has been granted a permit pursuant to this subsection. (1979, c. 474; 1982, c. 515; 1983, c. 233; 1986, cc. 409, 641; 1987, c. 108; 1988, c. 237.)

18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain felons. - Any person who sells, barters, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows to have been convicted of a Class 1, 2, 3 or 4 felony, forcible rape, robbery, a felony violation of 18.2-248, 18.2-248.1 or 18.2-256 for which the minimum prescribed punishment is a term of imprisonment of not less than five years or a felony involving the use of a firearm shall be guilty of a Class 1 misdemeanor.

However, this prohibition shall not be applicable when such convicted felon has (i) been issued a permit pursuant to 18.2-308.2 C, (ii) been pardoned or had his political disabilities removed in accordance with 18.2-308.2 B or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States. Any firearm sold, bartered, given or furnished or possessed or controlled with intent to do so in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in 18.2-310. (1988, c. 327.)

18.2-308.3. Use or attempted use of restricted ammunition in commission or attempted commission of crimes prohibited; penalty. - A. When used in this section:

"Restricted firearm ammunition"

applies to bullets, projectiles or other types of ammunition that are: (i) coated with or contain, in whole or in part, polytetrafluorethylene or a similar product, (ii) commonly known as "KTW" bullets or "French Arcanes," or (iii) any cartridges containing bullets coated with a plastic substance with other than lead or lead alloy cores, jacketed bullets with other than lead or lead alloy cores, or cartridges of which the bullet itself is wholly comprised of a metal or metal alloy other than lead. This definition shall not be construed to include shotgun shells or solid plastic bullets.

B. It shall be unlawful for any person to knowingly use or attempt to use restricted firearm ammunition while committing or attempting to commit a crime. Violation of this section shall constitute a separate and distinct felony

and any person found guilty thereof shall be guilty of a Class 5 felony. (1983, c. 602; 1988, c. 530.)

18.2-308.4. Possession of firearms while in possession of certain controlled substances. - A. Any person unlawfully in possession of (i) a controlled substance classified in Schedule I of the Drug Control Act, Chapter 34 of Title 54.1, or (ii) coca leaves and any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act, Chapter 34 (54.1-3448) who simultaneously with knowledge and intent possess any firearm shall be guilty of a Class 6 felony.

B. Any firearm possessed in violation of this section shall be forfeited to the Commonwealth pursuant to the provisions of 18.2-310. (1987, c. 285.)

18.2-309. Furnishing certain weapons to minors. - If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor a pistol, dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor, such person shall be guilty of a Class 4 misdemeanor. (Code 1950, 18.1-344; 1960, c. 358; 1975, cc. 14, 15.)

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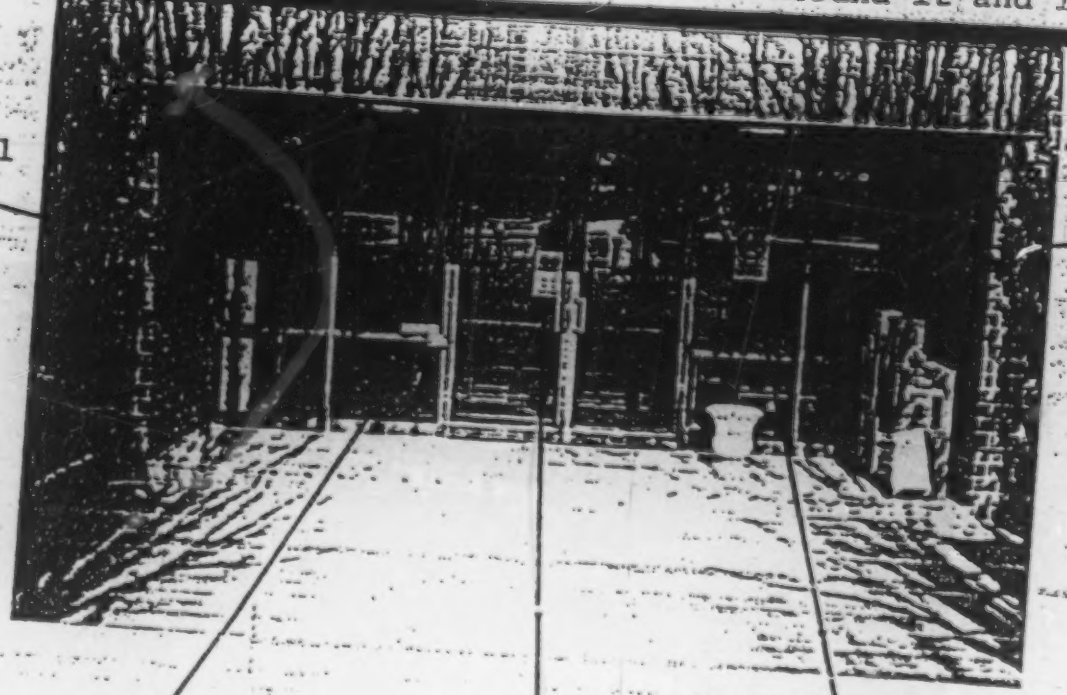
Front View of U. S. Courthouse & Federal Building

Exhibit "A"



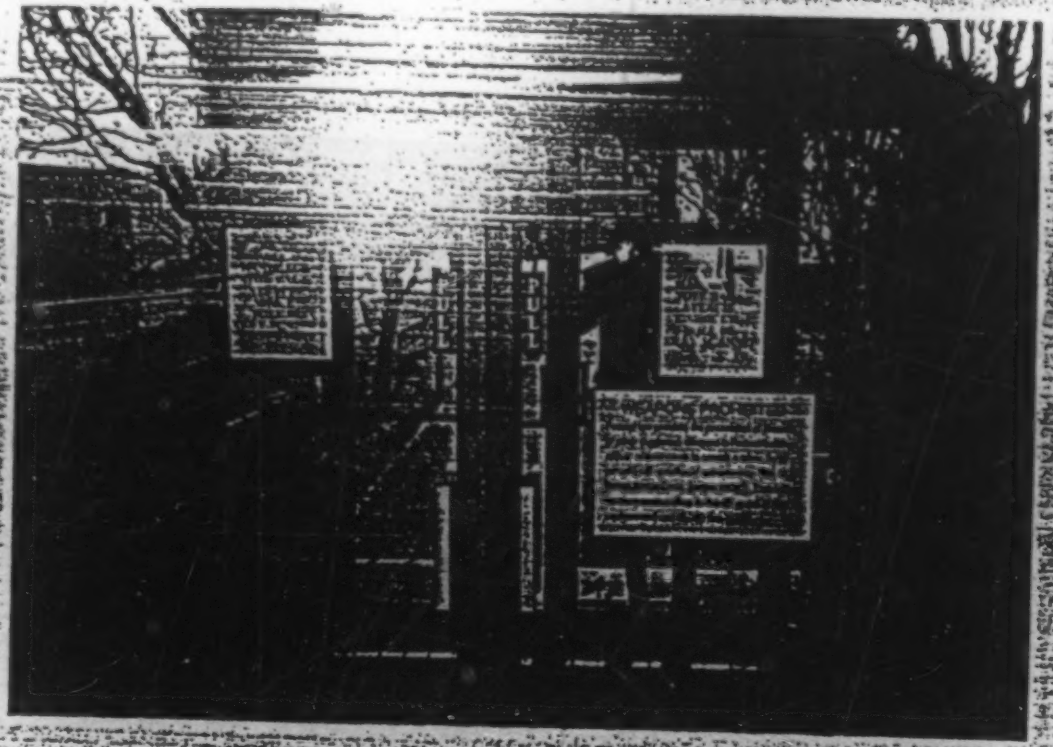
Plaque of Bill of Rights on left

Poster of Rules & Regulations Governing Public Buildings & Grounds (Title 41 CFR, Subpart 101-20.3) and WARNING re 18 USC sec. 930.

Sign, "Handicapped Entrance Located at Back of Building"

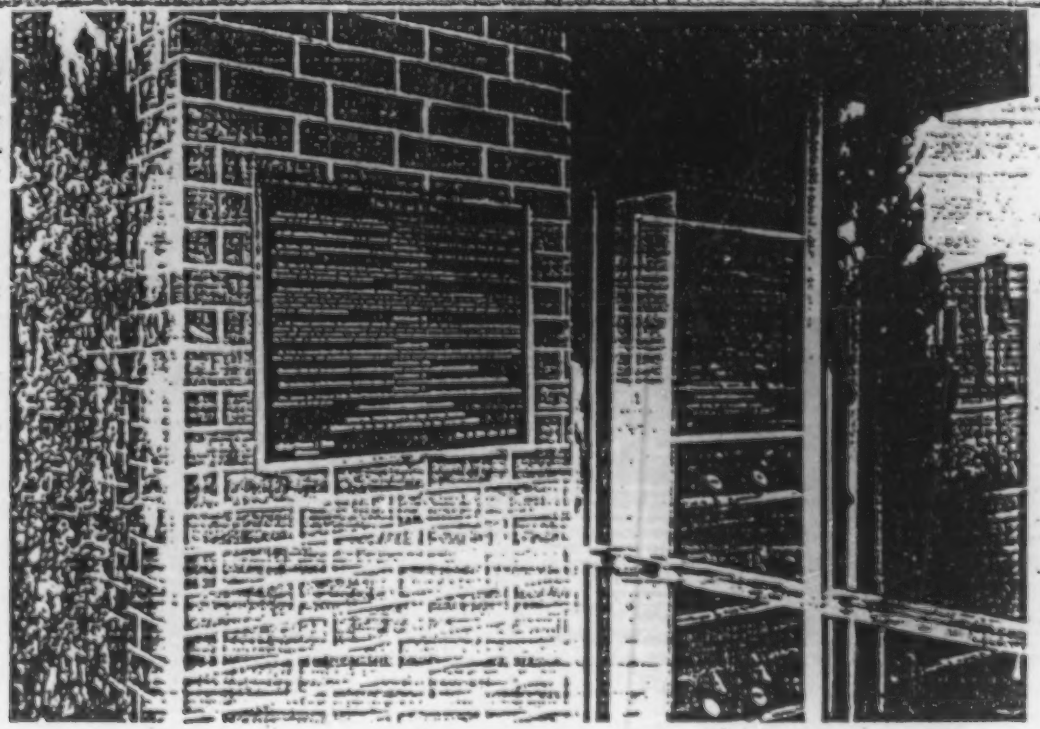
Sign, "Stop, Forms" with arrows to left & right for IRS forms

Poster of lit cigarette encircled with line through it (i.e., no smoking)



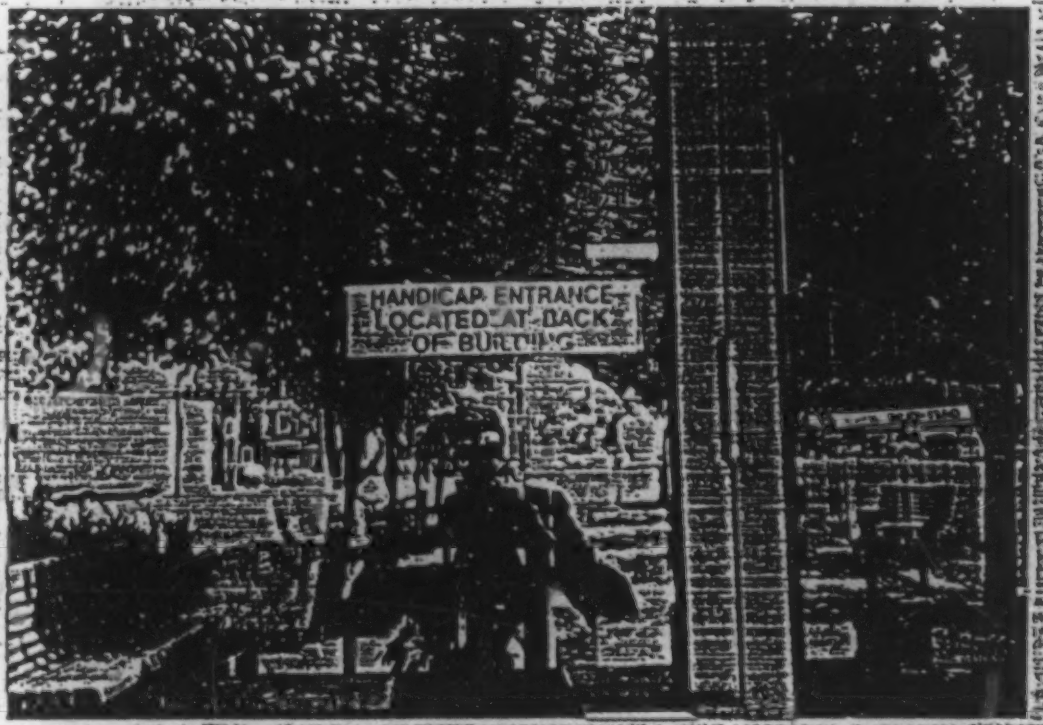
View of the inner doors - sign on left & right inner door says, "All handbags, Tote Bags, Attache cases, etc. will be X-ray scanned." Sign on right inner door titled "Weapons Prohibited" was put on after 1/16/92 on which date instead there was posted on each of the front doors a poster of a pistol with a

BEST AVAILABLE COPY



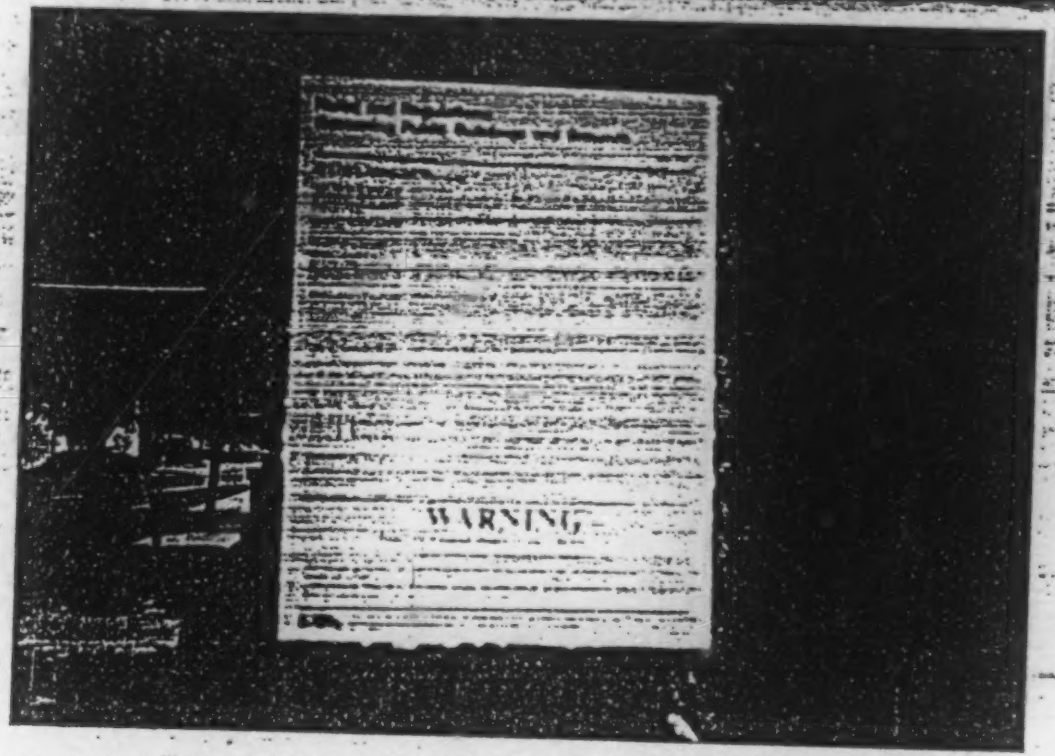
←IRS forms

The Bill of Rights

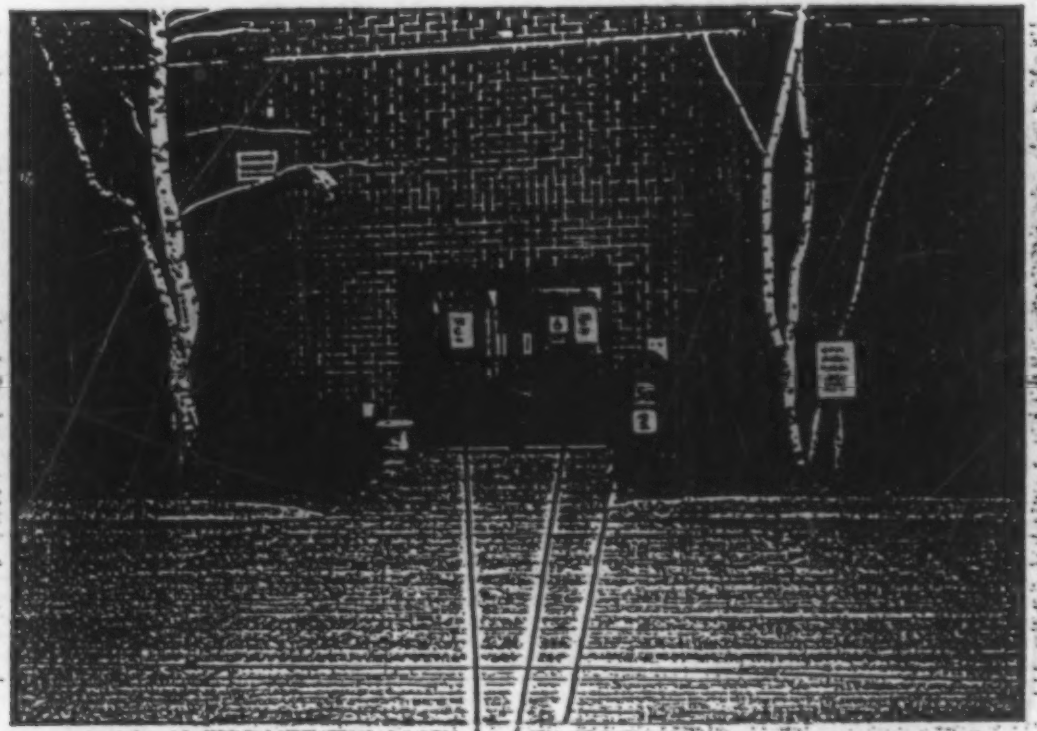


detail view of front of building

assigned this building. Any other vehicles parked [illegible] No exceptions. Teresa Ju



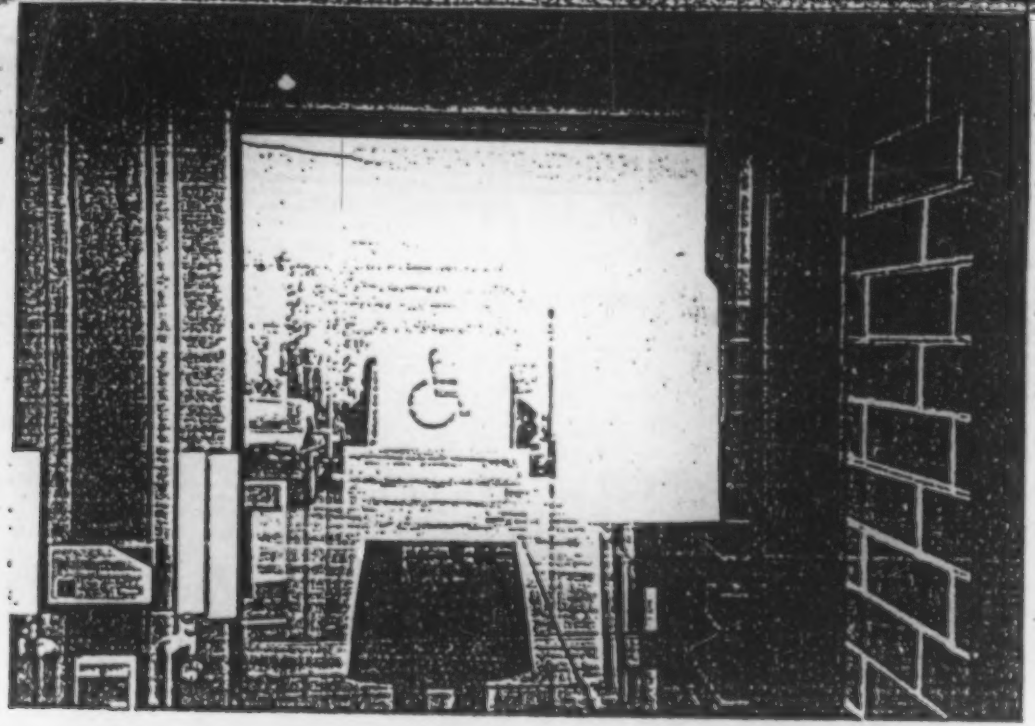
detail view of front of building



Close up view of rear of building

Each posted notice reads, "General Services Administration Region 3. The Parking Lot Behind this Building is reserved parking for tenants

Monroe
12/2/91
Bldg.
Mgr.
(Rm 101).



Detailed close up view of rear of building
(device on door is for card for certain persons who can enter without having to go in front way)

Rules and Regulations Governing Public Buildings and Grounds

June 1991

Federal Property Management Regulations
Title 41, Code of Federal Regulations, Subpart 101-20.3

Authority. These rules and regulations are promulgated pursuant to Public Law 566, 80th Congress, approved June 1, 1948 (Title 40, U.S. Code 318); and the Federal Property and Administrative Services Act of 1949 (Title 63, United States Statutes at Large, 377), as amended.

Applicability (41 CFR 101-20.300). These rules and regulations apply to all property under the charge and control of the General Services Administration and to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of these rules and regulations.

Inspection (41 CFR 102-20.301). Packages, briefcases, and other containers in the immediate possession of visitors, employees, or other persons arriving on, working at, visiting, or departing from Federal property, are subject to inspection. A full search of a person and any vehicle driven or occupied by the person may accompany an arrest.

Admission to property (41 CFR 101-20.302). Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by Subpart 101-20.4. During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Law Enforcement Branch responsible

building, is prohibited.

Conformity with signs and directions (41 CFR 101-20.304). Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the lawful direction of Federal Protective Officers and other authorized individuals.

Disturbances (41 CFR 101-20.305). Any loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

Gambling (41 CFR 101-20.306). Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.).

Alcoholic beverages and narcotics (41 CFR 101-20.307). Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. This rule does not apply to (a) natural or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR, Parts 110 and 950, Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations, issued by the U.S. Office of Personnel Management under Executive Order 12353 of March 23, 1982, as amended, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454); and (d) lessee, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 490(a)(16)). Public areas of GSA-controlled property may be used for other activities permitted in accordance with Subpart 101-20.4.

Posting and distributing materials (41 CFR 101-20.309). Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public area of the property as defined in § 101-20.003(z), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under Subpart 101-20.4 and shall conduct distribution

property for other than official purposes.

Vehicular and pedestrian traffic (41 CFR 101-20.310). (a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal Protective Officers or other authorized individuals and all posted traffic signs; (b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited; and (c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

Explosives (41 CFR 101-20.311). No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code Section 930.)

Nondiscrimination (41 CFR 101-20.312). There shall be no discrimination by segregation or otherwise

the original as posted which is

(this copy is a size reduction from the o
11" x 14" in width & length)

business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Law Enforcement Branch responsible for protection of the facility or the area. The designated official is defined in § 101-20.003(g) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested, display Government or other identifying credentials to the Federal Protective Officers or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the above applicable provisions is a violation of these regulations.

Preservation of property (41 CFR 100-20.303). The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazards on property to persons or things; the throwing of articles of any kind from or at a building or the climbing upon statues, fountains, or any part of the

Alcoholic beverages and narcotics (41 CFR 101-20.307). Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. The prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the buildings manager and the Chief, Law Enforcement Branch, or other authorized officials, responsible for the security of the property.

Soliciting, vending, and debt collection (41 CFR 101-20.308). Soliciting alms, commercial or political soliciting, and vending of all kinds, displaying or distributing commercial advertising, or collecting

perty as defined in § 101-20.003(k), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under Subpart 101-20.4 and shall conduct distribution in accordance with the provisions of Subpart 101-20.4. Failure to comply with these provisions is a violation of these regulations.

Photographs for news, advertising, or commercial purposes (41 CFR 101-20.310). Photographs may be taken in space occupied by a tenant agency only with the consent of the occupying agency concerned. Except where security regulations apply or a Federal court order or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

Dogs and other animals (41 CFR 101-20.311). Dogs and other animals, except seeing eye dogs, other guide dogs, and animals used to guide or assist handicapped persons, shall not be brought upon

concealed, except for official purposes. (Weapons, see Title 18, U.S. Code Section 930.)

Nondiscrimination (41 CFR 101-20.31)-6. There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations and activities provided thereby on the property.

Penalties and other laws (41 CFR 101-20.312). Whoever shall be found guilty of violating any rule or regulations in this Subpart 101-20.3 while on any property under the charge and control of the U.S. General Services Administration is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both. (See Title 40, U.S. Code 318c.) Nothing in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated (Sec. 205(c), 63 U.S. Statutes, 390; U.S. Code 486(c)).

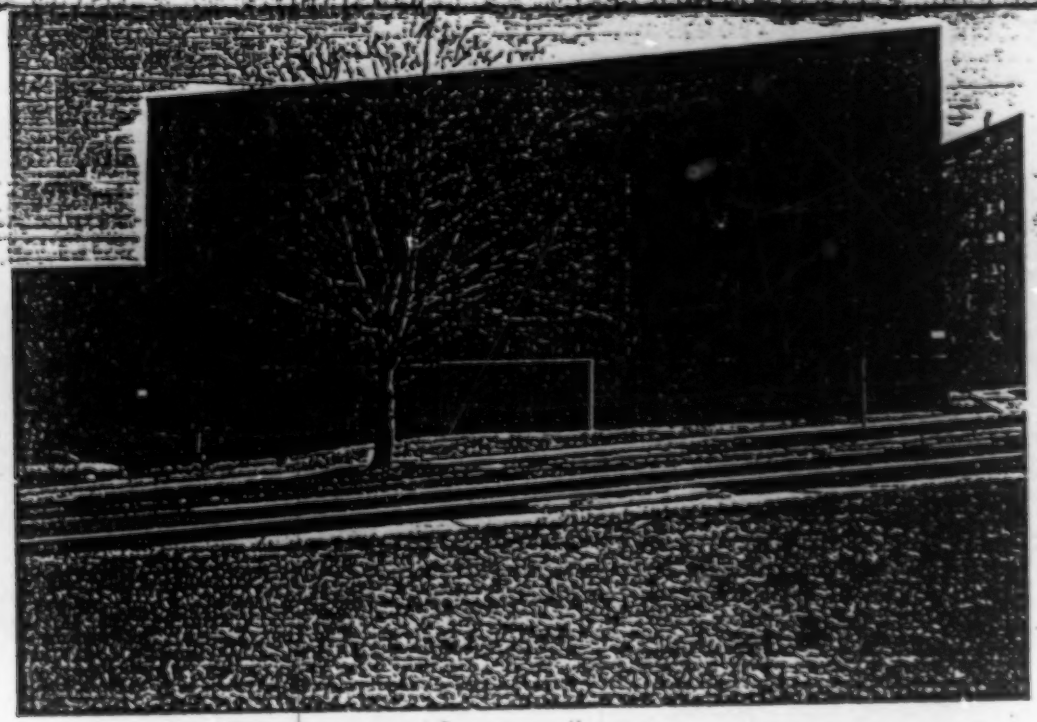
WARNING

Title 18, United States Code, Section 930
WEAPONS PROHIBITED

Federal law prohibits the knowing possession or the causing to be present of firearms or other dangerous weapons in Federal facilities and Federal court facilities by all persons not specifically authorized by Title 18, United States Code, Section 930(c). Violators shall be subject to fine and/or imprisonment for periods up to five (5) years.

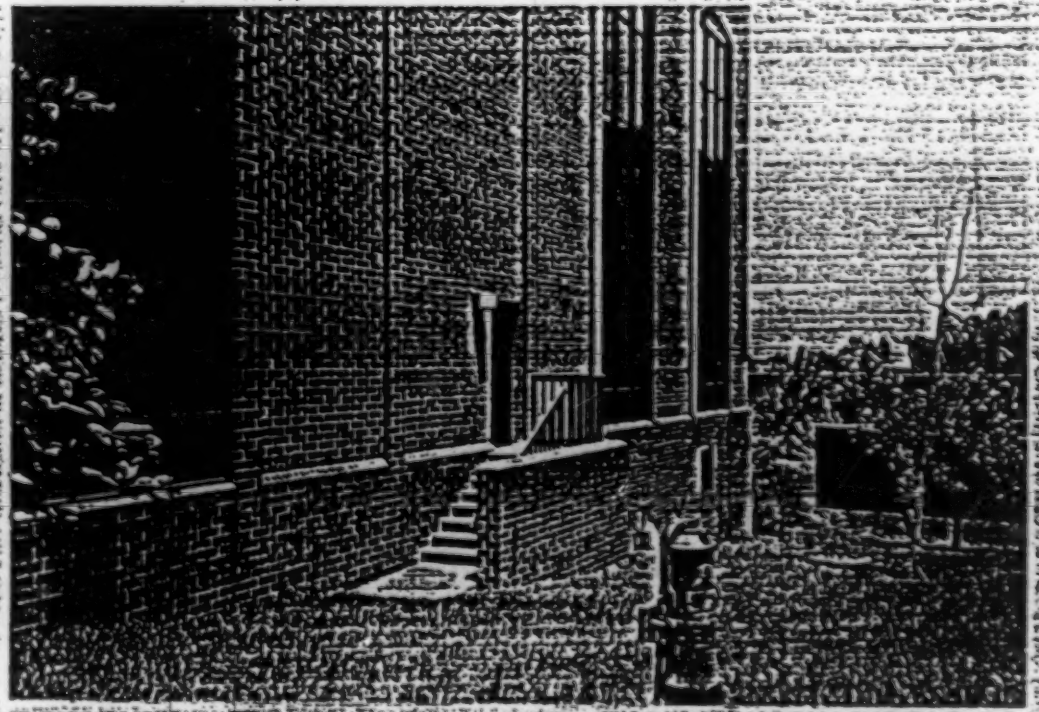
U.S. General Services Administration

If standing at the front of the building facing out (away from the building), this is a view of the left side of the building. Luxury condominiums are to the left in this photograph.

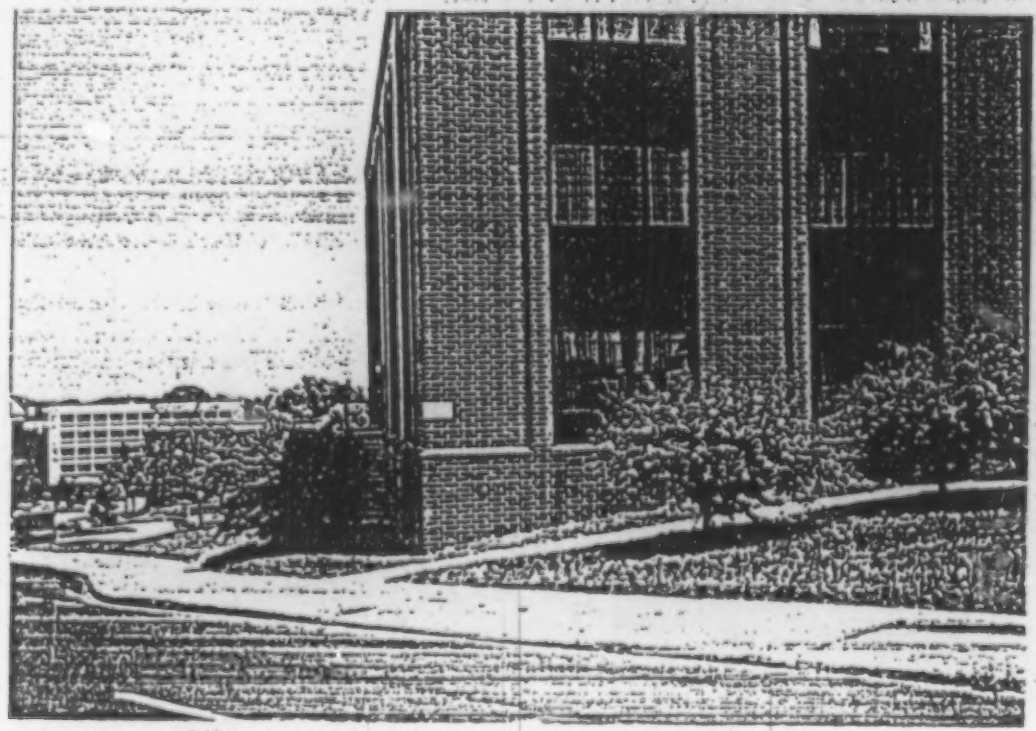


View of the right side of the building.

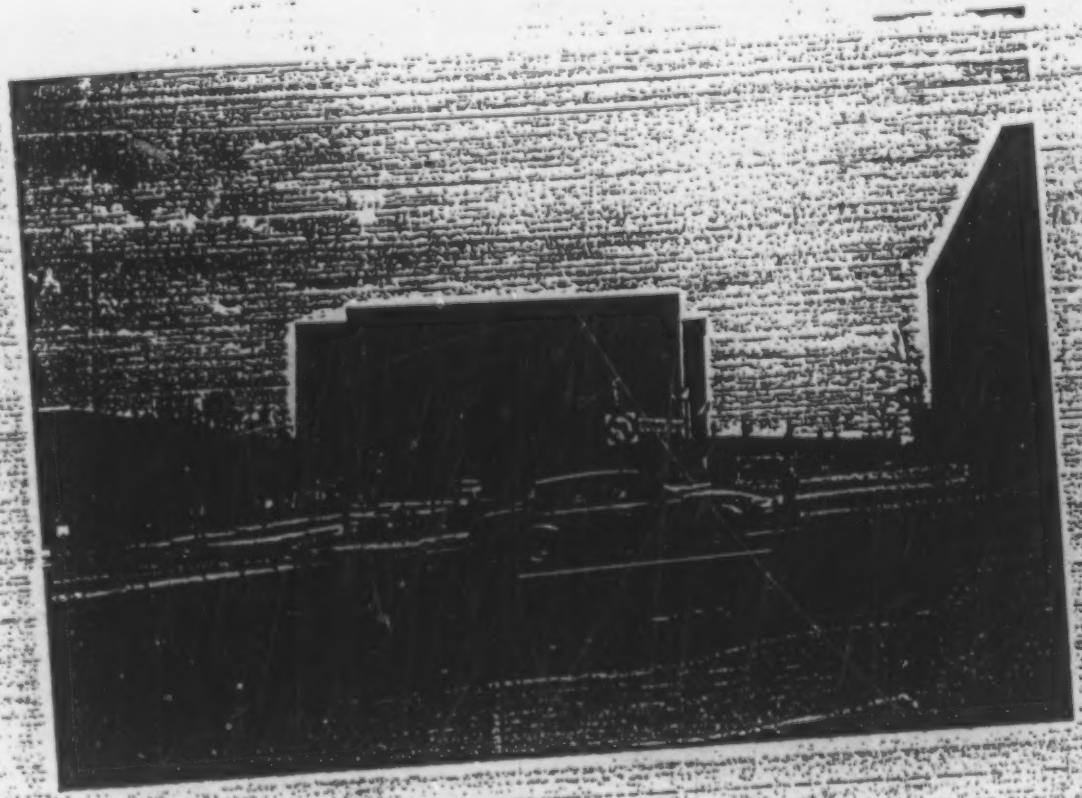
Luxury hotel, The Omni, appears in the rear.



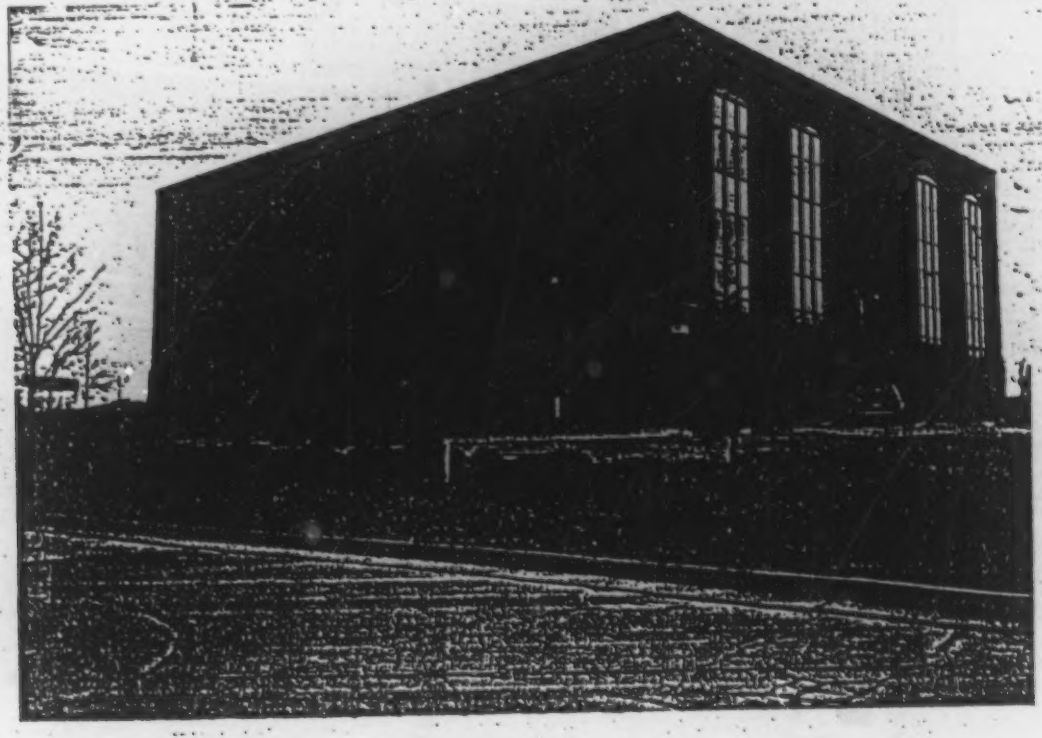
close up of left side of building



close up of right side of building (Ridge-McIntire St. side)



The Omni Hotel & rear of building



Rear of building & right side of building
and rear parking area

Rules and Regulations Governing Public Buildings and Grounds

RECEIVED
SEP 19 1991
Norman Lamet 1991
Attorney at Law

Federal Property Management Regulations
Title 41, Code of Federal Regulations, Subpart 101-20.3

Authority. These rules and regulations are promulgated pursuant to Public Law 566, 80th Congress, approved June 1, 1948 (Title 40, U.S. Code 318); and the Federal Property and Administrative Services Act of 1949 (Title 63, United States Statutes at Large, 377), as amended.

Applicability (41 CFR 101-20.300). These rules and regulations apply to all property under the charge and control of the General Services Administration and to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of these rules and regulations.

Inspection (41 CFR 102-20.301). Packages, briefcases, and other containers in the immediate possession of visitors, employees, or other persons arriving on, working at, visiting, or departing from Federal property, are subject to inspection. A full search of a person and any vehicle driven or occupied by the person may accompany an arrest.

Admission to property (41 CFR 101-20.302). Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by Subpart 101-20.4. During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Law Enforcement Branch responsible for protection of the facility or the area. The designated official is defined in § 101-20.003(g) as building, is prohibited.

Conformity with signs and directions (41 CFR 101-20.304). Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the lawful direction of Federal Protective Officers and other authorized individuals.

Disturbances (41 CFR 101-20.305). Any loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

Gambling (41 CFR 101-20.306). Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.).

Alcoholic beverages and narcotics (41 CFR 101-20.307). Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or

private debts on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR, Parts 110 and 950, Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations, issued by the U.S. Office of Personnel Management under Executive Order 12353 of March 23, 1982, as amended, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454); and (d) lessee, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 490(a)(16)). Public areas of GSA-controlled property may be used for other activities permitted in accordance with Subpart 101-20.4.

Posting and distributing materials (41 CFR 101-20.309). Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public area of the property as defined in § 101-20.003(z), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under Subpart 101-20.4 and shall conduct distribution in accordance with the provisions of Subpart 101-20.4. Failure to comply with those provisions

property for other than official purposes.

Vehicular and pedestrian traffic (41 CFR 101-20.312). (a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal Protective Officers or other authorized individuals and all posted traffic signs; (b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited; and (c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. The paragraph may be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part thereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

Explosives (41 CFR 101-20.313). No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code Section 930.)

Nondiscrimination (41 CFR 101-20.314). There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or per-

Exhibit 31

Parts appear in red ink on original)

(this copy is same size as original; brackets ap

be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Law Enforcement Branch responsible for protection of the facility or the area. The designated official is defined in § 101-20.003(g) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested, display Government or other identifying credentials to the Federal Protective Officers or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the above applicable provisions is a violation of these regulations.

Preservation of property (41 CFR 100-20.303). The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building or the climbing upon statues, fountains, or any part of the

101-20.307). Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. The prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the buildings manager and the Chief, Law Enforcement Branch, or other authorized officials, responsible for the security of the property.

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[illegible] (See Title 18, U.S. Code Section 930.)

Nondiscrimination (41 CFR 101-20.314). There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the property.

Penalties and other laws (41 CFR 101-20.315). Whoever shall be found guilty of violating any rule or regulation in this Subpart 101-20.3 while on any property under the charge and control of the U.S. General Services Administration is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both. (See Title 40, U.S. Code 318c.) Nothing in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated (Sec. 205(c), 63 U.S. Statutes, 390; 40 U.S. Code 486(c)).

WARNING

Title 18, United States Code, Section 930
WEAPONS PROHIBITED

Federal law prohibits the knowing possession or the causing to be present of firearms or other dangerous weapons in Federal facilities and Federal court facilities by all persons not specifically authorized by Title 18, United States Code, Section 930(c). Violators shall be subject to fine and/or imprisonment for periods up to five (5) years.

U.S. General Services Administration

Exhibit B2

BOOK 640 PAGE 425

TIRE ROAD

Federal Building

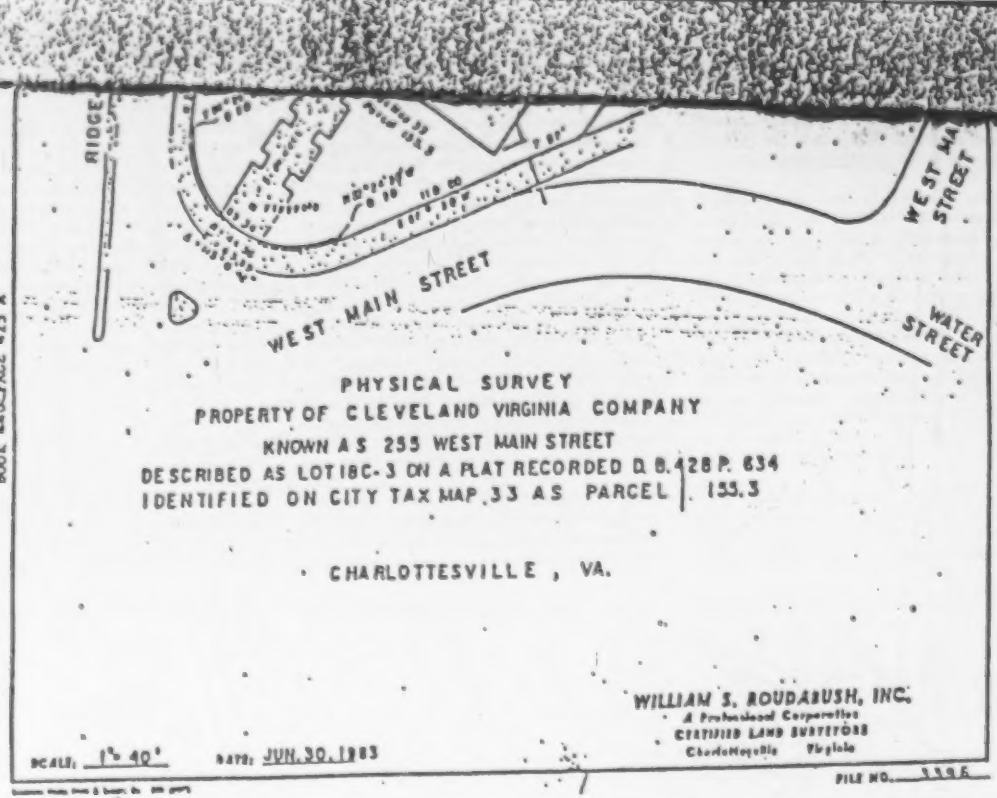
Lot 10B

Lot 10C-1

COMMONWEALTH OF VIRGINIA

BOOK 555 PAGE 794

Exhibit C-1



BOOK 448 PAGE 423 A

Exhibit C2

Original W. Hdrawn
4/18/91
Peter D. Hallin

BOOK 555 PAGE 773

000775

GENERAL WARRANTY DEED

THIS DEED is made this 15th day of March, 1991, by and between THE REDINGER GROUP, ("Grantor"), and VV VERMOEGENSVERWALTUNGSGESELLSCHAFT GbR DR. ROSE/DR. KIVERNAGEL, a West German partnership ("Grantee"), whose business address is 250 West Main Street, Suite 310, Charlottesville, Virginia 22901.

W I T N E S S E T H:

THAT FOR AND IN CONSIDERATION of the sum of TEN DOLLARS ($10.00), cash in hand paid by the Grantee to the Grantor, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby bargain, sell grant and convey with General Warranty and English Covenants of Title, unto the Grantee, all of that certain lot or parcel of land and all improvements thereon lying and being in the City of Charlottesville, Virginia, and more particularly described on

BOOK 555 PAGE 774

President, as of the date first above written.

THE REDINGER GROUP, INC.

By: _____
Craig T. Redinger, President

STATE OF VIRGINIA AT LARGE
CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this 13th day of March, 1991 by Craig T. Redinger as President of The Redinger Group, Inc.

_____
Notary Public

My commission expires: 7/31/93

unto the Grantee, all of the [illegible]

improvements thereon lying and being in the City of Charlottesville, Virginia, and more particularly described on Exhibit A, attached hereto and made a part hereof.

This conveyance is made subject, however, to all real estate taxes and assessments not yet due and payable, zoning ordinances and building codes, agreements, easements, conditions, restrictions and reservations appearing of record which affect said property, and to the lease to the United States of America dated January 29, 1982, as amended.

IN WITNESS WHEREOF, The Redinger Group, Inc. has caused this instrument to be executed by Craig T. Redinger, its duly authorized

Exhibit D-2

Street; thence along the northern line of West Main Street [illegible] point and place of beginning.

TOGETHER WITH a perpetual non-exclusive easement and right of way twelve (12) feet in width for ingress and egress to install, maintain, repair, and replace a fifteen (15) inch reinforced concrete pipe as a storm sewer shown on a plat made by William S. Roudabush, Inc., dated June 29, 1982, entitled "Plat Showing Proposed Drainage Easement To Be Acquired From Charlottesville Redevelopment and Housing Authority Adjacent to Ridge-McIntire, Charlottesville, Virginia", recorded in the aforesaid Clerk's Office, in Deed Book 430, page 385, and being more particularly bounded and described in accordance with said plat as follows:

To find the point and place of beginning, begin at a point on the northern line of West Main Street at the point of curvature where it intersects with Ridge-McIntire Road; thence along the northern line of West Main Street as it becomes the eastern line of Ridge-McIntire Road the following courses and distances: N. 22° 24' 30" W. 0.30 feet to a point; (2) thence along a curve to the right with a radius of 44.30 feet, an arc distance of 89.34 feet to a point; (3) thence S. 88° 25' 37" W. 0.30 feet to a point; (4) thence N. 2° 28' 13" E. 83.28 feet to a point; and (5) thence along a curve to the right with a radius of 940.0 feet, an arc distance of 174.72 feet to a point and place of beginning; thence continuing along the eastern line of Ridge-McIntire Road the following courses and distances: (1) along a curve to the right with a radius of 840.00 feet, an arc distance of 64.28 feet to a point; and (2) thence N. 17° 02' 00" E. 21.13 feet to a point; thence leaving the eastern line of Ridge-McIntire Road S. 7° 58' 00" E. 12.00 feet to a point; thence 17° 02' 00" W. 21.13 feet to a point; thence along a curve to the left with a radius of 928.00 feet, an arc distance of 63.44 feet to a point; thence N. 78° 52' 01" W. 12.00 feet to the point and place of beginning.

TOGETHER WITH an appurtenant, non-exclusive access easement as shown on plat by the City of Charlottesville Engineering Division, dated March 16, 1885, recorded in the aforesaid Clerk's Office, in Deed Book 483, page 338.

STATE TAX $ 7,050.00 (038)
CITY TAX $ 2,350.00 (214)
TTAXIS $ 1.00 (212)
FEE $ 12.00 (361)
VSLF $ 1.00 (145)
PLAT $ _____
SEC. 58.1-801
STATE TAX $ 2,350.00 (038)
LOCAL TAX $ 2,350.00 (220)
LOCAL TAX $ _____ (223)
14,114.00

Admitted to Record in the Clerk's Office of the Circuit Court of the City of Charlottesville, Virginia, on the 15 day of March, 1991 at 3:44 o'clock P.M., and recorded in Deed Book No. 555 Page 775
The taxes imposed by §§58.1-801 and 58.1-802 of the Virginia Code have been paid.

Paul C. Garrott Clerk

BOOK 555 PAGE 775

EXHIBIT A

All that certain lot, piece or parcel of land, with all the improvements thereon and appurtenances thereunto belonging, lying and being in the City of Charlottesville, Virginia, known as the Federal Building - 255 West Main Street and designated as Lot 18C-3, as shown on a plat made by William S. Roudabush, Inc., dated June 30, 1982, entitled "Physical Survey Property of Cleveland Virginia Company Known as 255 West Main Street Described as Lot 18C-3 On A Plat Recorded D.B. 428, P 434 Identified On City Tax Map 33 As Parcel 135.3, Charlottesville, VA.", recorded in the Clerk's Office of the Circuit Court of the City of Charlottesville, Virginia, in Deed Book 440, page 417, and being more particularly bounded and described in accordance with said plat as follows:

Beginning at a point on the northern line of West Main Street at the point of curvature where it intersects with Ridge-McIntire Road; thence along the northern line of West Main Street as its becomes the eastern line of Ridge-McIntire Road the following courses and distances: (1) N. 22° 24' 30" W. 0.30 feet to a point; (2) thence along a curve to the right with a radius of 44.30 feet, an arc distance of 89.34 feet to a point; (3) thence S. 88° 25' 37" W. 0.30 feet to a point; (4) thence N. 2° 28' 13" E. 83.28 feet to a point; and (5) thence along a curve to the right with a radius of 940.0 feet, an arc distance of 174.72 feet to a point; thence leaving the eastern line of Ridge-McIntire Road S. 78° 33' 10" E. 77.00 feet to a point, thence S. 55° 41' 23" E. 138 feet to a point; thence S. 4° 10' 16" E. 60.41 feet to a point; thence S. 34° 18' 37" W. 99.16 feet to a point on the northern line of West Main Street; thence along the northern line of West Main Street S. 67° 30' W. 110.00 feet to the point and place of beginning.

TOGETHER WITH a perpetual non-exclusive easement and right of way twelve (12) feet in width for ingress and egress to install, maintain, repair, and replace a fifteen (15) inch reinforced concrete pipe as a storm sewer shown on a plat made by William S. Roudabush, Inc., dated June 29, 1982, entitled "Plat Showing Proposed Drainage Easement To Be Acquired From Charlottesville Redevelopment and Housing Authority Adjacent to Ridge-McIntire, Charlottesville, Virginia", recorded in the aforesaid Clerk's Office, in Deed Book 430, page 385, and being more particularly bounded and described in accordance with said plat as follows:

Exhibit D-4

To find the point and place of beginning, begin at a point on the northern line of West Main Street at the point of curvature where it intersects with Ridge-McIntire Road; thence along the northern line of West Main Street as it becomes the eastern line of Ridge-McIntire Road the following courses and distances: N. 22° 24' 30" W. 0.30 feet to a point; (2) thence along a curve to the right with a radius of 44.30 feet, an arc distance of 89.34 feet to a point; (3) thence S. 88° 25' 37" W. 0.30 feet to a point; (4) thence N. 2° 28' 13" E. 83.28 feet to a point; and (5) thence along a curve to the right with a radius of 940.0 feet, an arc distance of 174.72 feet to a point and place of beginning; thence continuing along the eastern line of Ridge-McIntire Road the following courses and distances: (1) along a curve to the right with a radius of 840.00 feet, an arc distance of 64.28 feet to a point; and (2) thence leaving the eastern line of

Office of the Circuit Court of the City [illegible]
Book 555, page 773. The owner of such property is also the assignee of leases between a predecessor in title, as lessor, and the USA acting through the General Services Administration, as lessee. A copy of the lease descriptions and a plat are also enclosed.

The building is currently used as U. S. Courthouses, Dept. of Defense offices, IRS offices, and various other federal offices. Your attention is directed to section 7.1-18.1C of the Code of Virginia providing that on and after July 1, 1981, over all lands hereafter acquired by the USA the Commonwealth cedes concurrent jurisdiction. I also direct your attention to 40 USC sec. 255 providing that the head of the applicable US governmental agency must file with your office a notice of accpetance of jurisdiction in order for the US to accept jurisdiction.

My question is, has the Administrator of the GSA, or any other person acting for the USA, filed in your office acceptance of jurisdiction of the above described property? Thank you for your assistance.

Very truly yours,

Norman Lamson

Enc.'s

P. S. The USA did not commence to occupy the building until after 1981.

Exhibit E2

NORMAN HUNTER LAMSON
ATTORNEY AND COUNSELLOR AT LAW
619-B EAST HIGH STREET
CHARLOTTESVILLE, VA. 22901-5135

(804) 979-8159
FAX (804) 979-8152

May 13, 1992

The Honorable Douglas Wilder,
Governor
Office of the Governor
Richmond, VA 23219

Re: Request for Information as to Whether the United States of America has filed with you acceptance of jurisdiction of the Federal Building, 255 W. Main Street, Charlottesville, VA

Dear Governor Wilder:

Enclosed is a copy of a deed dated March 14, 1991, from the Redinger Group to a West German partnership recorded in the Clerk's Office of the Circuit Court of the City of Charlottesville in Deed Book 555, page 773. The owner of such property is also the assignee of leases between a predecessor in title, as lessor, and the USA acting through the General Services Administration, as lessee. A copy of the lease descriptions and a plat are also enclosed.

Exhibit E1

The building is currently used as U. S. Courthouses, Dept. of Defense offices, IRS offices, and various other federal offices. Your attention is directed to section 7.1-18.1C of the Code of Virginia providing that on and after July 1, 1981, over all lands hereafter acquired by the USA the Commonwealth cedes concurrent jurisdiction. I also direct your attention to 40 USC sec. 255 providing that the head of the applicable US governmental agency must file with

BEST AVAILABLE COPY

May 13, 1992, in which you question whether the United States of America has filed an acceptance of concurrent jurisdiction with respect to the property located at 255 West Main Street in Charlottesville. A search of our records did not produce such.

We believe such notice would have been forwarded to the Secretary of the Commonwealth. The State Library's archives contain approximately 100 cubic feet of files from former Secretaries of the Commonwealth between the years 1981 to 1990. The archived files are indexed only by date and we cannot provide the resources to conduct a search on your behalf. However, those files would be available for your viewing any weekday during normal business hours.

Sincerely yours,

May H. Fox
Deputy Secretary of Administration

MHF/ars

cc: The Honorable Lawrence Douglas Wilder

Mr. Raymond D. Patterson
Director, Department of General Services

Mr. Nathan I. Broocke
Director, Division of Engineering and Buildings

COMMONWEALTH of VIRGINIA

Ruby G. Martin
Secretary of Administration

Office of the Governor
Richmond 23219

(804) 786-1201
TDD (804) 786-7765

JUN 25 1992

June 23, 1992

Norman Hunter Lamson, Esquire
619-B East High Street
Charlottesville, Virginia 22901-5135

Dear Mr. Lamson:

Governor Wilder has asked that I respond to your letter of May 13, 1992, in which you question whether the United States of America has filed an acceptance of concurrent jurisdiction with respect to the property located at 255 West Main Street in Charlottesville. A search of our records did not produce such.

We believe such notice would have been forwarded to the Secretary of the Commonwealth. The State Library's archives contain approximately 100 cubic feet of files from former Secretaries of the Commonwealth between the years 1981 to 1990. The archived files are indexed only by date and we cannot provide the resources to conduct a search on your behalf. However, those files would be available for your viewing any weekday during normal business hours.

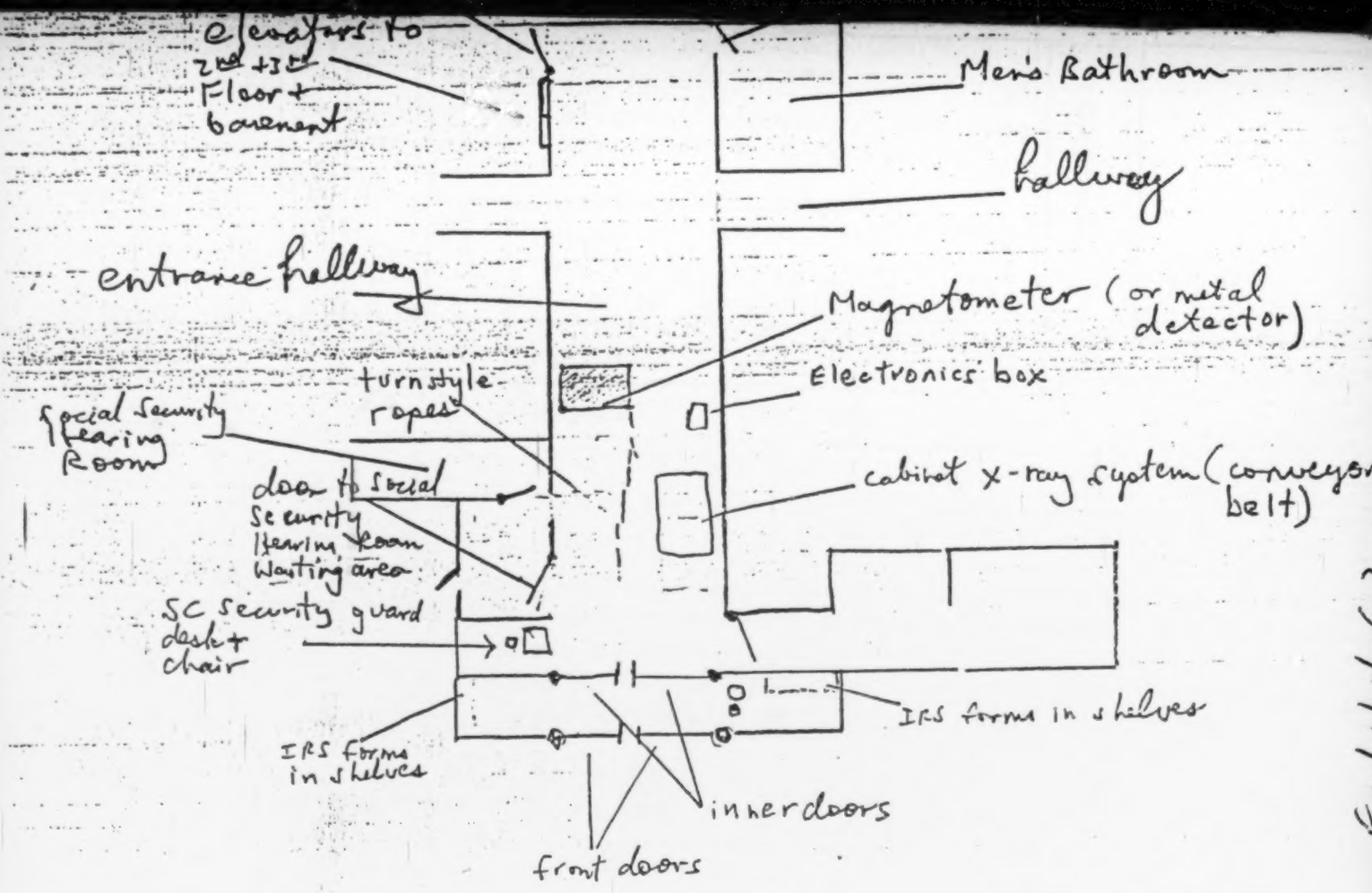


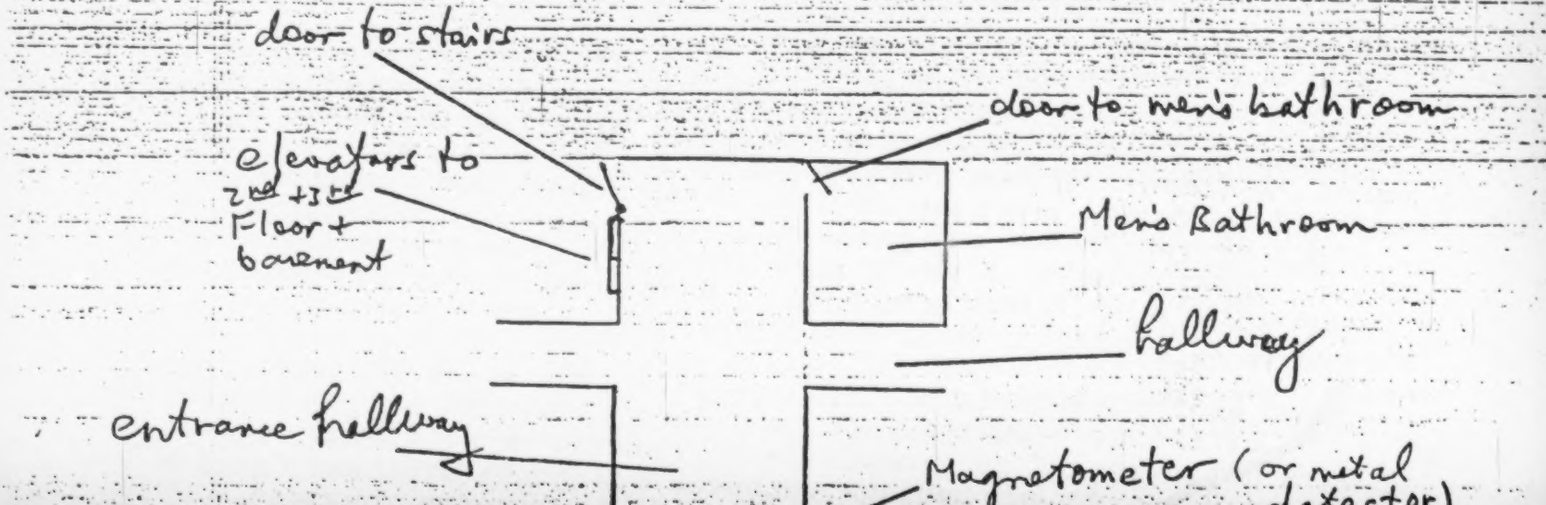
Exhibit G-2

Not to scale; No Warranty as to details

Exhibit G

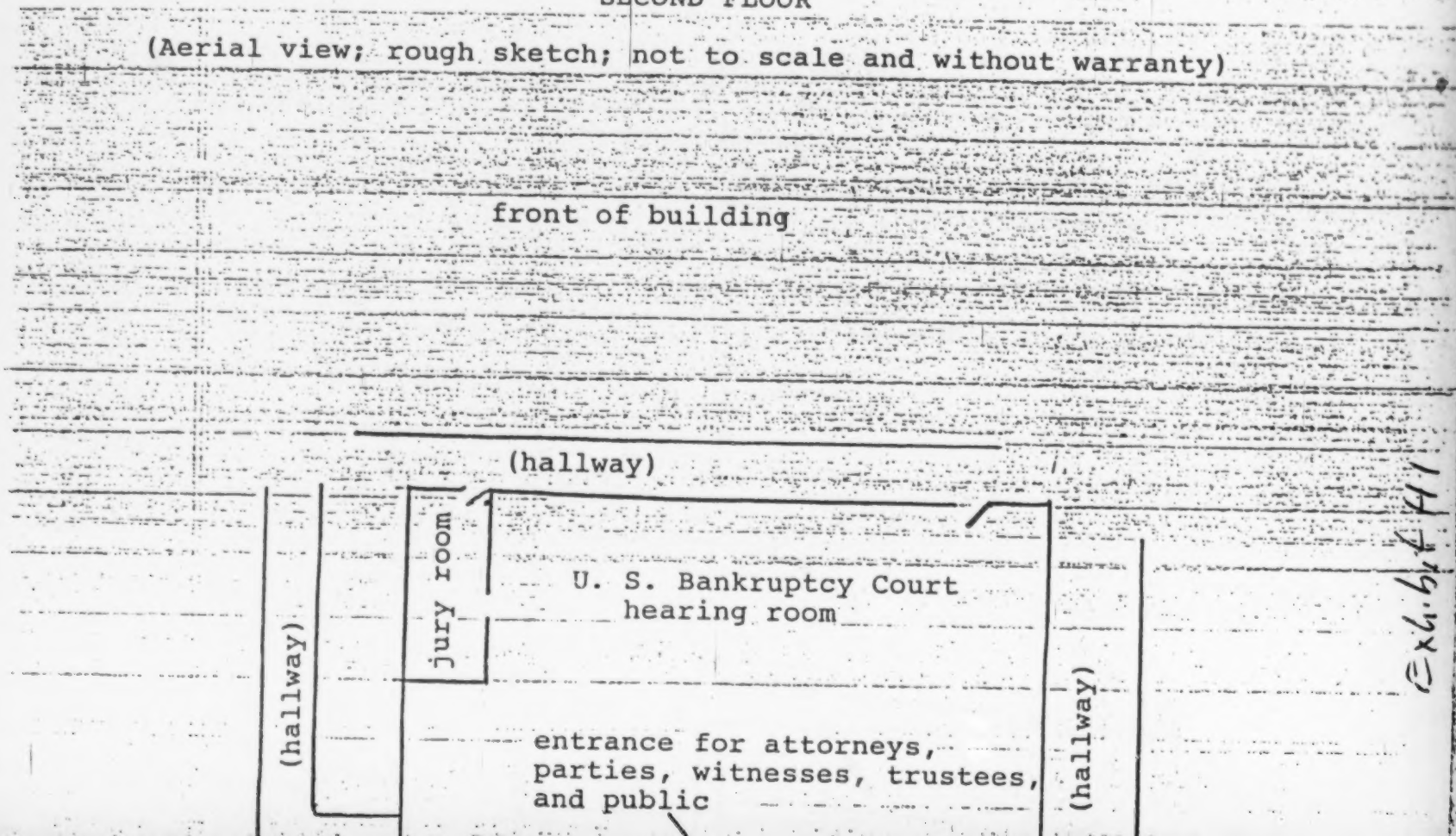
(Rough Sketch)

Aerial View of First Floor



SECOND FLOOR

(Aerial view; rough sketch; not to scale and without warranty)



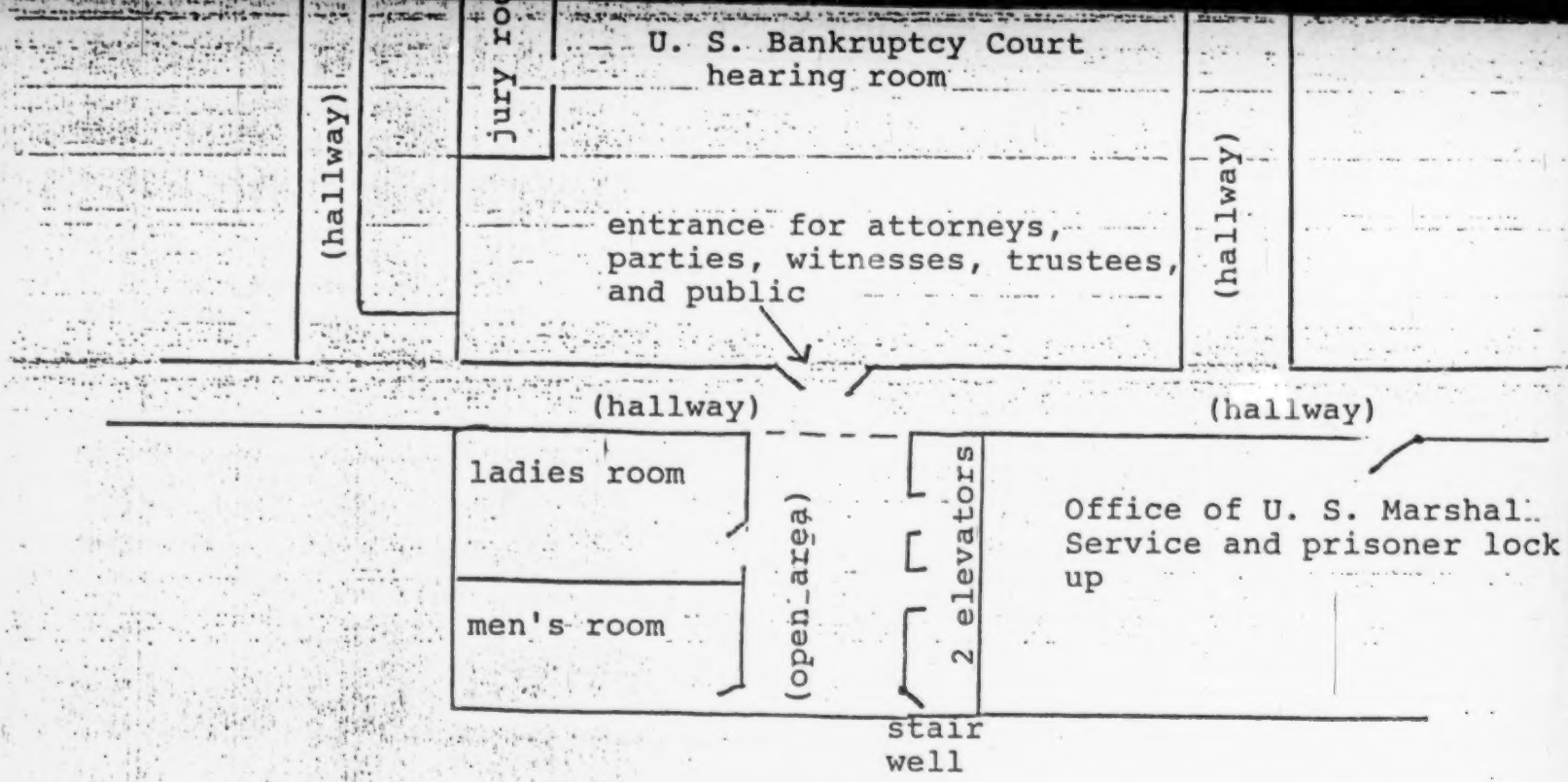

jury ro
U. S. Bankruptcy Court
hearing room
(hallway)
(hallway)
entrance for attorneys,
parties, witnesses, trustees,
and public
(hallway)
(hallway)
ladies room
men's room
(open area)
2 elevators
Office of U. S. Marshal
Service and prisoner lock
up
stair
well
rear of building

Exhibit H2

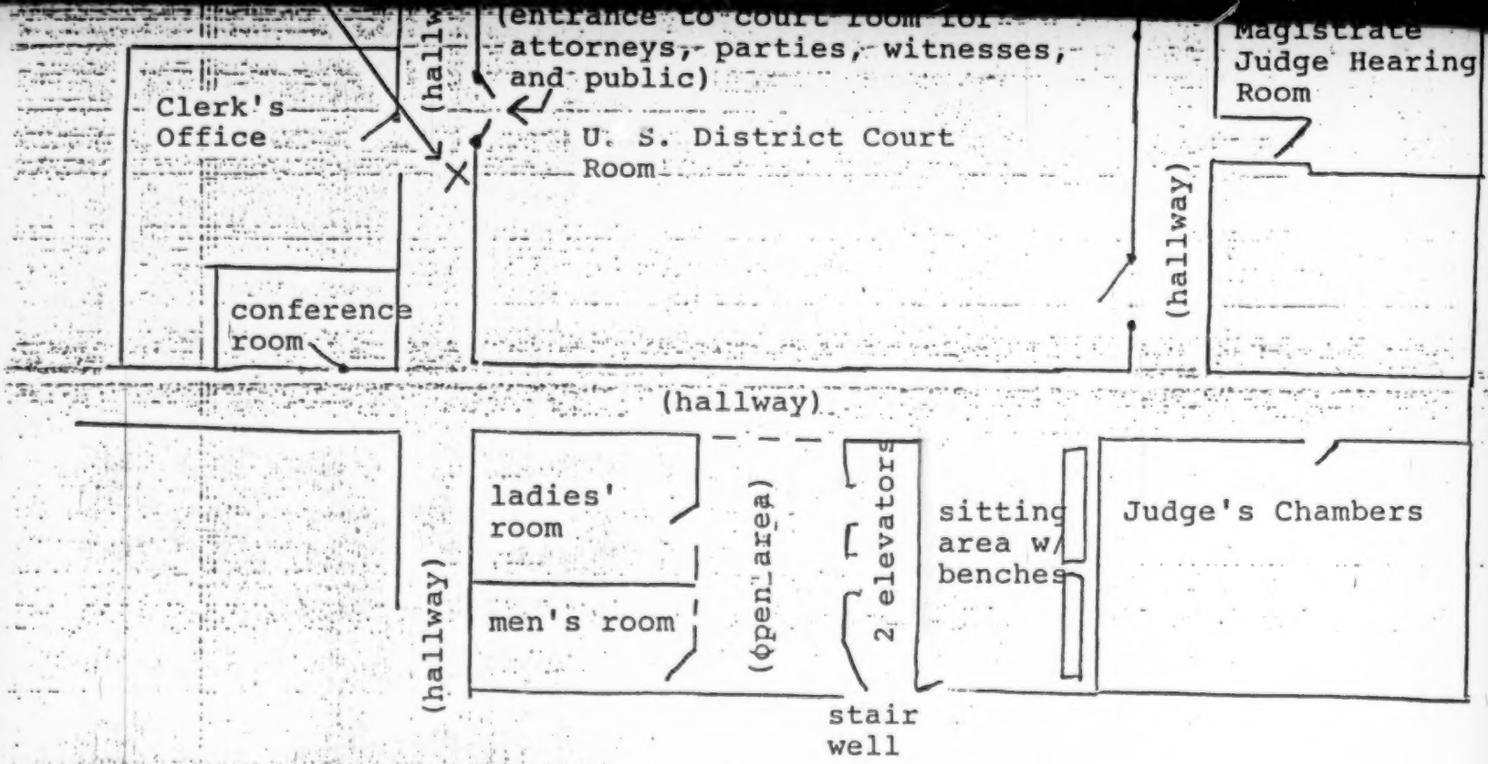


Exhibit I2

THIRD FLOOR

(Rough aerial depiction; not to scale)

front of building

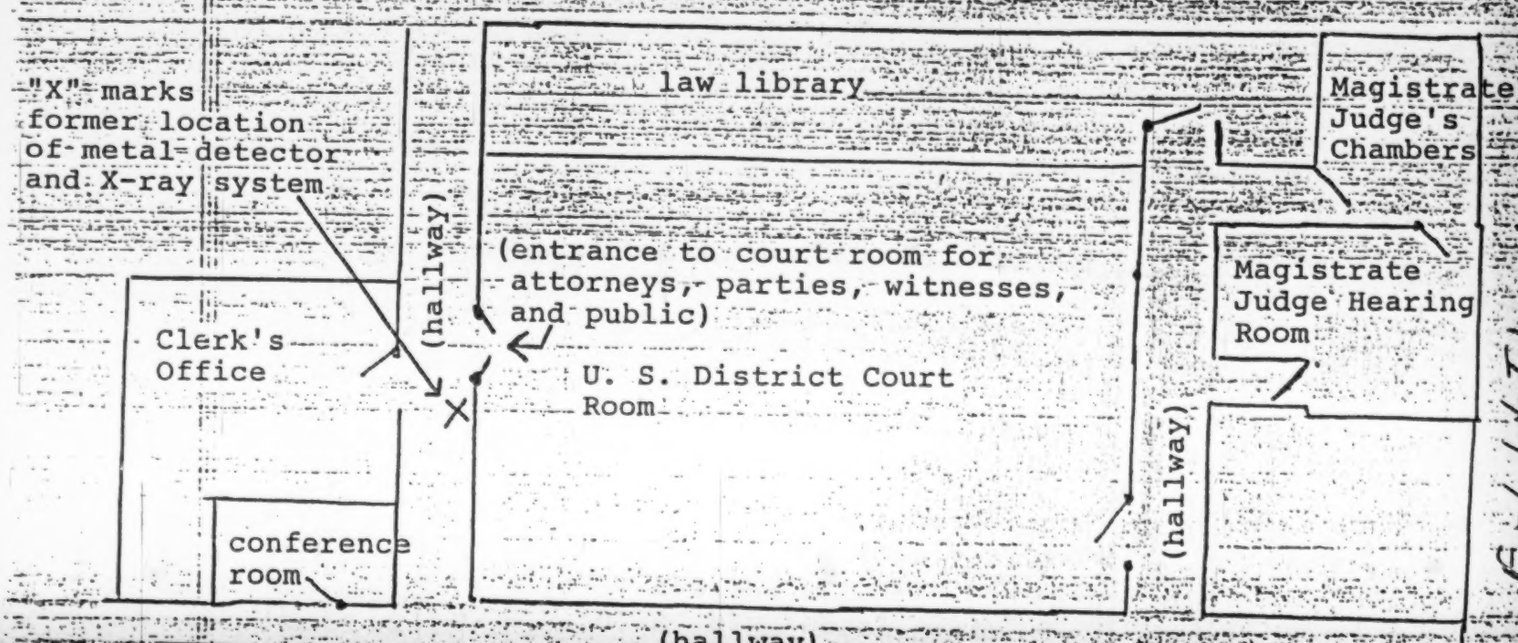


Exhibit I1